Report of the matters transacted by the Minister of Labour and Manpower during 1983 under the provisions of the:

Labour Relations Act

Public Service (Collective Bargaining) Act

Fishing Industry (Collective Bargaining) Act

Newfoundland Teacher (Collective Bargaining) Act

Report of the Labour Standards Board for the year 1983

Report of the Newfoundland Labour Relations Board for the year 1983

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Analysis of the requests for conciliation referred to the Minister during 1983

1.	Total requests referred to the Minister during 1983		77
	Requests rejected by the Minister		0
	Total requests referred to conciliation officers		77
2.	Disputes referred to conciliation officers under:		
	The Labour Relations Act	73	
	The Public Service (Collective Bargaining) Act	3	
	The Fishing Industry (Collective Bargaining) Act	0	
	The Newfoundland Teacher (Collective Bargaining) Act	1	
	TOTAL	77	77

Total number of persons included in bargaining units involved in labour disputes settled with the assistance of conciliation officers. 11,252

DISPOSITION OF DISPUTES

1.	Disputes in progress as of 31 December, 1982		10
2.	Disputes referred to conciliation officers during 1983		77
			87
3.	Disputes resolved under:		
	The Labour Relations Act	55	
	The Public Service (Collective Bargaining) Act	2	
	The Fishing Industry (Collective Bargaining) Act	0	
	The Newfoundland Teacher (Collective Bargaining) Act	1	
4.	Disputes considered to have lapsed under:		
	The Labour Relations Act	13	
	The Public Service (Collective Bargaining) Act	1	
	The Fishing Industry (Collective Bargaining) Act	1	
	The Newfoundland Teacher (Collective Bargaining) Act	0	
5.	Disputes being dealt with by conciliation officers as of 31 December, 1983, under:		
	The Labour Relations Act	13	
	The Public Service (Collective Bargaining) Act	0	
	The Fishing Industry (Collective Bargaining) Act	0	
	The Newfoundland Teacher (Collective Bargaining) Act	1	
	TOTAL	87	87

Disputes referred to a conciliation board after being dealt with by a conciliation officer under:

The Labour Relations Act	1
The Public Service (Collective Bargaining) Act	0
The Fishing Industry (Collective Bargaining) Act	0
The Newfoundland Teacher (Collective Bargaining) Act	1

Report of the matters transacted by the Minister of Labour and Manpower during 1983 under the provisions of The Labour Relations Act

This report is presented in accordance with Section 144 of the Act.

Conciliation

Pursuant to the provisions of The Labour Relations Act, the Minister received requests for conciliation services during 1983, seeking assistance toward the settlement of labour disputes involving the conclusions of collective agreements between the following parties:-

1. Retail, Wholesale and Department Store Union, Local 597 and Newfoundland Margarine Company Limited, St. John's.

2. Seafarers' International Union of Canada and L. Gates Limited, Change Islands.

3. Canadian Union of Public Employees, Local 2172 and Avalon Consolidated School Board, St. John's.

4. Retail, Wholesale and Department Store Union, Local 597 and Philip Parsons Limited, Donovans Industrial Park.

5. Newfoundland Association of Public Employees and Avalon North Integrated School Board, Bay Roberts.

6. United Brotherhood of Carpenters and Joiners of America, Local 2564 and Chester Dawe Limited, St. John's.

7. Newfoundland and Labrador Building and Construction Trades Council and Connolly and Twizell Eastern Limited, Labrador City.

8. Newfoundland and Labrador Building and Construction Trades Council and Marshall Industries Limited, Ontario.

9. Labourers' International Union of North America, Local 1208 and McNamara Corporation of Newfoundland Limited.

10. Canadian Brotherhood of Railway, Transport and General Workers: Hotel Newfoundland Employees' Union, Local 550 and The Battery Limited, St. John's.

11. United Brotherhood of Carpenters and Joiners of America, Local 2564 and Wallken Enterprises Limited, Mount Pearl.

12. Retail, Wholesale and Department Store Union, Local 597 and Maple Leaf Mills Limited (Foxtrap Plant).

13. United Brotherhood of Carpenters and Joiners of America, Local 2564 and Newfoundland Hardwoods Limited, St. John's.

14. International Association of Machinists and Aerospace Workers, Westside Lodge 455 and Hickman Motors Limited, Gander.

15. International Association of Machinists and Aerospace Workers, Westside Lodge 455 and Jim Penney Limited, Gander.

16. International Association of Machinists and Aerospace Workers, Local 950 and Barber Offshore Limited, St. John's.

17. Newfoundland Association of Public Employees and St. John's Metropolitan Area Board.

18. International Association of Machinists and Aerospace Workers, Lodge 544 and Beothuck Ford Sales Limited, Grand Falls.

19. Transport and Allied Workers Union, Local 855 and Hickman Motors Limited, Carbonear.

20. Newfoundland Association of Public Employees and Eastern Services Limited (Memorial University of Newfoundland) St. John's.

21. United Brotherhood of Carpenters and Joiners of America, Local 2564 and Abitibi-Price Inc., Grand Falls.

22. Corner Brook Fire Fighters Association, Local 1222 and City Council of Corner Brook.

23. International Association of Machinists and Aerospace Workers, Lodge 544 and Corner Brook Automobile Dealers Association.

24. International Association of Machinists and Aerospace Workers, Lodge 927 and Bordeaux Maintenance Services (Maritime) Limited, Gander.

25. Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers, Locals 351 and 354 and Newfoundland Brewery Employees' Union and Breweries Industrial Relations Association Limited representing Carling O'Keefe Breweries of Canada Limited; Labatt Brewing Company Limited; and Molson Newfoundland Brewery Limited.

26. Newfoundland Association of Public Employees and Beaver Foods Limited (Memorial University of Newfoundland) St. John's.

27. Canadian Paperworkers Union, Local 119 and Canadian International Paper Company, Container Division, St. John's.

28. Newfoundland Association of Public Employees and Placentia/ St. Mary's Roman Catholic School Board.

29. Newfoundland Fishermen, Food and Allied Workers Union, Local 1252 and T. J. Hardy Company Limited, Anchor Point.

30. Newfoundland Fishermen, Food and Allied Workers Union, Local 1252 and North Atlantic Fisheries Limited, St. John's.

31. Newfoundland Fishermen, Food and Allied Workers Union, Local 1252 and Ocean Havesters Limited, Harbour Grace and Port de Grave.

32. Retail, Wholesale and Department Store Union, Local 597 and Holiday Inn, Corner Brook.

33. Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers, Local 353 and Browning Harvey Limited, St. John's and Corner Brook.

34. Transport and Allied Workers Union, Local 855 and Harvey and Company Limited (Mechanics Agreement) St. John's.

35. Transport and Allied Workers Union, Local 855 and Brinks Canada Limited, Donovans Industrial Park.

36. Retail, Wholesale and Department Store Union, Local 597 and Dominion Stores Limited.

37. Transport and Allied Workers Union, Local 855 and Gerald S. Doyle Limited, St. John's.

38. International Brotherhood of Electrical Workers, Local 2330 and Energy and Chemical Workers Union, Local 908 and Petro Canada Ventures, Come by Chance.

39. Canadian Union of United Brewery, Flour Cereal, Soft Drink and Distillery Workers, Local 354 and Carling O'Keefe Breweries of Canada Limited, St. John's.

40. International Association of Machinists and Aerospace Workers, Lodge 544 (Stockroom Employees) and Corner Brook Automobile Dealers Association (Corner Brook Garage Limited and City Motors (Newfoundland) Limited).

41. International Association of Machinists and Aerospace Workers, Lodge 544 (Office and Clerical Employees) and Corner Brook Garage Limited.

42. International Union of Operating Engineers, Local 904 and Dexter Construction Limited, Nova Scotia.

43. Canadian Union of Public Employees, Local 2300 and Notre Dame Integrated School Board, Lewisporte.

44. Bakery, Confectionary and Tobacco Workers Union, Local 381 and Purity Factories Limited, St. John's.

45. Newfoundland Association of Public Employees and Burgeo Integrated School Board.

46. United Steelworkers of America, Local Union 6204 and Dominion Stores Limited, Wabush.

47. Staff Representatives Union and United Steelworkers of America, Labrador.

48. International Brotherhood of Painters and Allied Trades, Local 1984 and E. C. Boone Limited, St. John's.

49. Canadian Union of Public Employees, Local 2099 and Town Council of Mount Pearl.

50. Canadian Union of Public Employees, Local 2768 and Town Council of Gambo.

51. United Brotherhood of Carpenters and Joiners of America, Local 2564 and Saunders, Howell and Company Limited, Carbonear.

52. Transport and Allied Workers Union, Local 855 and Moffatt Brothers Moving and Storage Limited (a division of Canadian Pacific Express and Transport Limited), St. John's.

53. Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers, Local 355 and Wometco Newfoundland Limited, St. John's, Bishops Falls and Corner Brook (Plant and Office Staff).

54. Transport and Allied Workers Union, Local 855 and Atlantic Concrete, St. John's (a division of Lundrigan's Group Limited).

55. Labourers' International Union of North America, Local 1208 and Newfoundland Association of Public Employees, St. John's.

56. St. John's Allied Printers' Union, Local 441 and Creative Printers and Publishers Limited, St. John's.

57. Retail, Wholesale and Department Store Union, Local 597 and Blue Buoy Foods Limited, St. John's.

58. Newfoundland Fishermen, Food and Allied Workers Union, Local 1252 and J. W. Hiscock and Sons Limited, Brigus.

59. Newfoundland Fishermen, Food and Allied Workers Union, Local 1252 and Mifflin Fisheries Limited, Catalina.

60. United Brotherhood of Carpenters and Joiners of America, Local 579 and Aylward Homes Limited, St. John's.

61. International Union of Operating Engineers, Local 904 and Jones Construction Limited, Stephenville.

62. Newfoundland Association of Public Employees and Town Council of Paradise.

63. Newfoundland Association of Public Employees and Grand Bank Recreation Commission.

64. Retail, Wholesale and Department Store Union, Local 597 and Philip Parsons Limited, Donovans Industrial Park.

65. Newfoundland Fishermen, Food and Allied Workers Union, Local 1252 and Grand Falls Co-operative Society Limited, Grand Falls.

66. United Cement, Lime and Gypsum and Allied Workers International Union, Local 506 and Flintkote Holdings Limited, Flat Bay.

67. Newfoundland Association of Public Employees and Town Council of St. Lawrence.

68. United Steelworkers of America, Local 5795 (Operations) and Iron Ore Company of Canada, Labrador City.

69. International Association of Machinists and Aerospace Workers, Local 544 and Gander Automobile Dealers Association and The Hickman Motors Limited and Jim Penney Limited.

70. Newfoundland Association of Public Employees and Canadian Red Cross, St. John's (Laboratory Workers).

71. Newfoundland Association of Public Employees and Burin Peninsula Integrated School Board, Burin.

72. United Brotherhood of Carpenters and Joiners of America, Local 2564 and Bowater Newfoundland Limited, Corner Brook.

73. United Steelworkers of America, Local 6731 (Warehouse) and Iron Ore Company of Canada, Labrador City.

Disputes referred to Conciliation Officers under The Labour Relations Act

1.	Disputes in progress as of 31 Decmeber, 1982		8
2.	Disputes referred to conciliation officers during 1983		73
3.	Disputes resolved at conciliation officer level	40	
4.	Disputes referred to and resolved by conciliation boards after being dealt with by conciliation officers	1	
5.	Disputes resolved with the assistance of conciliation officers after strike action by union or lockout by employer.	14	
6.	Disputes considered to have lapsed	13	
7.	Disputes being dealt with by conciliation officers as of 31 December, 1983	13	
	TOTAL	81	81

Appointed under The Labour Relations Act

Conciliation Board

1. Abitibi-Price Incorporated, Grand Falls and United Brotherhood of Carpenters and Joiners of America, Loggers' Local 2564.

Chairman	Gordon G. Easton, Q.C.
Union Nominee	Robert Wells, Q.C.
Employer Nominee	Frederick W. Russell

Requests for the Appointment of Arbitrators Under The Labour Relations Act

1. On 2 February, 1983, the Minister received a request from the Canadian Union of Public Employees, Local 2172, St. John's, for the appointment of the employer nominee to an arbitration board to deal with a grievance between that Union and the Avalon Consolidated School Board, St. John's.

   The Minister referred the matter to the School Board and on 17 February, 1983, was advised an employer nominee had been appointed to the arbitration board.

2. On 3 February, 1983, the Minister received a request from the Canadian Union of Public Employees, Local 2172, St. John's, for the appointment of the employer nominee to an arbitration board to deal with a grievance between that Union and the Avalon Consolidated School Board, St. John's.

   The Minister referred the matter to the School Board and on 17 February, 1983, was advised an employer nominee had been appointed to the arbitration board.

3. On 11 February, 1983, the Minister received a request from the Canadian Union of Public Employees, Local 2099, St. John's, for the appointment of the employer nominee to an arbitration board to deal with a grievance between that Union and the Town of Mount Pearl.

   The Minister referred the matter to the Town Council and on 7 March, 1983, was advised an employer nominee had been appointed to the arbitration board.

4. On 10 February, 1983, the Minister received a request from the Labourers' International Union of North America, Local 1208, St. John's, for the appointment of a single arbitrator to deal with a grievance between that Union and Thomas Fuller Construction Company (1958) Limited, St. John's.

   The Minister referred the matter to the Company for their comments and on 2 March, 1983, appointed Gordon G. Easton, Q.C. as sole arbitrator.

5. On 15 February, 1983, the Minister received a request from the United Steelworkers of America, Local 6285, Wabush, for the appointment of a single arbitrator to deal with a grievance between that Union and Wabush Mines Limited, Wabush.

   The Minister considered the request and on 18 February, 1983, was notified by Wabush Mines that the matter had been resolved.

6. On 18 February, 1983, the Minister received a request from the International Brotherhood of Painters and Allied Trades, Local 1984, St. John's, for the appointment of the employer nominee to an arbitration board to deal with a grievance between that Union and Paul Stroud Limited, Long Pond, Manuels.

   The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. George Tilley as the employer nominee on the arbitration board.

7. On 25 February, 1983, the Minister received a request from the Newfoundland Fishermen, Food and Allied Workers Union, Local 1252, St. John's, for the appointment of the employer

nominee to an arbitration board to deal with a grievance between that Union and T. J. Hardy Company Limited, Port aux Basques.

The Minister referred the matter to the Company for their comments and, in their reply, the Company stated an employer nominee had now been appointed to the arbitration board.

8. On 16 March, 1983, the Minister received a request from the International Brotherhood of Electrical Workers, Local 2330, St. John's, for the appointment of a single arbitrator to deal with a grievance between that Union and Bob's Electric, Corner Brook.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Paul Dicks as sole arbitrator.

9. On 7 April, 1983, the Minister received a request from the Newfoundland Fishermen, Food and Allied Workers Union, St. John's, for the appointment of a single arbitrator to deal with a grievance between that Union and Fishery Products Limited, Trepassey.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Gordon G. Easton, Q.C., as sole arbitrator.

10. On 13 April, 1983, the Minister received a request from the Sheet Metal Workers International Association, Local 512, St. John's, for the appointment of a single arbitrator to deal with a grievance between that Union and R. S. Rogers Limited, St. John's.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Cyril W. Strong as sole arbitrator.

11. On 13 April, 1983, the Minister received a request from the Retail, Wholesale and Department Store Union, Local 597, St. John's, for the appointment of an arbitrator to deal with a grievance between that Union and City Consumers Co-operative Society Limited, St. John's.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Gordon G. Easton, Q.C., as sole arbitrator.

12. On 13 April, 1983, the Minister received a request from the Sheet Metal Workers International Association, Local 512, St. John's, for the appointment of an arbitrator to deal with a grievance between that Union and M. & S. Sheet Metal Limited, St. John's.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Cyril W. Strong as sole arbitrator.

13. On 13 July, 1983, the Minister received a request from the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, Local 740, St. John's, for the appointment of an arbitrator to deal with a grievance between that Union and Trans Island Mechanical Limited, Corner Brook.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Gordon G. Easton, Q.C., as sole arbitrator.

14. On 10 August, 1983, the Minister received a request from the Newfoundland Fishermen, Food and Allied Workers Union, Local 1252, St. John's, for the appointment of the employer nominee to an arbitration board to deal with a grievance between that Union and Port Enterprises Limited, Southern Harbour.

    The Minister referred the matter to the Company for their comments and in their reply, the Company stated the grievance had now been resolved.

15. On 11 August, 1983, the Minister received a request from the International Brotherhood of Electrical Workers, Local 2330, St. John's, for the appointment of the employer nominee to an arbitration board to deal with a grievance between that Union and R. F. Collins Electrical, St. John's.

    The Minister referred the matter to the Company for their comments and was subsequently notified the grievance had been resolved.

16. On 17 August, 1983, the Minister received a request from the International Union of Operating Engineers, Local 904, St. John's, for the appointment of an arbitrator to deal with a grievance between that Union and Wells Construction A. V. Limited, Brigus, Conception Bay.

    The Minister referred the matter to the Company for their comments and in their reply the Company stated the grievance was now proceeding through regular channels and the assistance of the Minister's office was no longer required.

17. On 15 August, 1983, the Minister received a request from the United Steelworkers of America, Local 6285, Wabush, for the appointment of an arbitrator to deal with a grievance between that Union and Wabush Mines Limited, Wabush.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Paul Dicks as sole arbitrator.

18. On 29 August, 1983, the Minister received a request from the United Brotherhood of Carpenters and Joiners of America, Local 579, St. John's, for the appointment of an arbitrator to deal with a grievance between that Union and Bradco Construction Limited, St. John's.

While considering the request, the Minister was notified the parties had agreed upon an arbitrator and his assistance was no longer required.

19. On 23 September, 1983, the Minister received a request from the Sheet Metal Workers International Association, Local 512, St. John's, for the appointment of an arbitrator to deal with a grievance between that Union and E. & G. Burner Services Limited, St. John's.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. David Alcock as sole arbitrator.

20. On 28 October, 1983, the Minister received a request from the Labourers' International Union of North America, Local 1208, St. John's, for the appointment of an arbitrator to deal with a grievance between that Union and Jack Green Limited, St. John's.

The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Gordon, G. Easton, Q.C., as sole arbitrator.

21. On 10 November, 1983, the Minister received a request from the Labourers' International Union of North America, Local 1208, St. John's, for the appointment of a single arbitrator to deal with a grievance between that Union and Stokes Development Company Limited, St. John's.

    The Minister referred the matter to the Company for their comments and after considering their reply, appointed Mr. Gordon G. Easton, O.C., as sole arbitrator.

22. On 31 October, 1983, the Minister received a request from the Newfoundland Association of Public Employees, Corner Brook, for the appointment of a chairperson to an arbitration board to deal with a grievance between that Union and the Town of Stephenville.

    The Minister contacted the employer and was informed a chairperson had now been named to the arbitration board and the matter was now proceeding along regular channels.

Report of the matters transacted by the Minister of Labour and Manpower during 1983 under the provisions of The Public Service (Collective Bargaining) Act, 1973

This report is presented in accordance with Section 43 of that Act.

Conciliation

Pursuant to the provisions of The Public Service (Collective Bargaining) Act, the Minister received requests for conciliation services during 1983 seeking assistance toward the settlement of labour disputes involving the renewal of collective agreements between the following parties:-

1. Newfoundland Association of Public Employees (Air Services Division, Department of Transportation) and Her Majesty the Queen in Right of Newfoundland represented by Treasury Board.

2. Professional Association of Interns and Residents of Newfoundland and Her Majesty the Queen in Right of Newfoundland represented by Treasury Board and Newfoundland Hospital Association.

3. College of Fisheries Faculty Association and Board of Governors, the College of Fisheries, Navigation, Marine Engineering and Electronics, St. John's.

Disputes referred to Conciliation Officers under The Public Service (Collective Bargaining) Act

1.	Disputes in progress as of 31 December, 1982		0
2.	Disputes referred to conciliation officers during 1983		3
3.	Disputes resolved at conciliation officer level	2	
4.	Disputes referred to conciliation board after being dealt with by conciliation officers	0	
5.	Disputes resolved with the assistance of conciliation officers after strike action by union or lockout by employer	0	
6.	Disputes considered to have lapsed	1	
7.	Disputes being dealt with by conciliation officers as of 31 December, 1983	0	
	TOTAL	3	3

Appointed under The Public Service (Collective Bargaining) Act

Conciliation Boards

Nil

Requests for the Appointment of Arbitrators
Under The Public Service (Collective Bargaining) Act

1. On 21 March, 1983, the Minister received a request from the Newfoundland Association of Public Employees, St. John's, for the appointment of a chairperson to an arbitration board to deal with a grievance between that Union and Her Majesty the Queen in Right of Newfoundland represented by Treasury Board (Department of Public Works and Services, Clarenville).

   The Minister considered the request and on 24 March, 1983, was notified by the employer that a chairperson had been appointed to the arbitration board.

2. On 20 June, 1983, the Minister received a request from the Newfoundland Association of Public Employees, St. John's, for the appointment of a chairperson to an arbitration board to deal with a grievance between that Union and Her Majesty the Queen in Right of Newfoundland represented by Treasury Board (Escasoni Senior Citizens' Home, St. John's).

   After contacting Treasury Board, the Minister was informed a chairperson to the arbitration board had been agreed upon by the parties and it was now not necessary for him to proceed with an appointment.

3. On 5 July, 1983, the Minister received a request from the Newfoundland Association of Public Employees, Clarenville, for the appointment of a chairperson to an arbitration board to deal with a grievance between that Union and Her Majesty the Queen in Right of Newfoundland represented by Treasury Board (Department of Culture, Recreation and Youth, Clarenville).

The Minister considered the request and on 8 July, 1983, was notified that a chairperson had now been named to the arbitration board.

4. On 16 September, 1983, the Minister received a request from the Newfoundland Association of Public Employees, Clarenville, for the appointment of an arbitrator to deal with a grievance between that Union and Her Majesty the Queen in Right of Newfoundland represented by Treasury Board (Department of Health, Marystown Medical Clinic).

   The Minister considered the request and on 26 September, 1983, was notified an arbitrator had now been agreed upon and the grievance was proceeding along regular channels.

5. On 16 September, 1983, the Minister received a request from the Newfoundland Association of Public Employees, Clarenville, for the appointment of an arbitrator to deal with a grievance between that Union and Her Majesty the Queen in Right of Newfoundland represented by Treasury Board (Department of Transportation, Salt Pond).

   While considering the request, the Minister was notified an arbitrator had been agreed upon by the parties and his office's services were no longer required.

Report of the matters transacted by the Minister of Labour and Manpower during 1983 under the provisions of The Fishing Industry (Collective Bargaining) Act, 1971

This report is presented in accordance with Section 35 of that Act.

Conciliation

Pursuant to the provisions of The Fishing Industry (Collective Bargaining) Act, the Minister did not receive a request for conciliation services during 1983.

Disputes referred to Conciliation Officers under The Fishing Industry (Collective Bargaining) Act

1.	Disputes in progress as of 31 December, 1982		1
2.	Disputes referred to conciliation officers during 1983		0
3.	Disputes resolved at conciliation officer level	0	
4.	Disputes referred to conciliation boards after being dealt with by conciliation officers	0	
5.	Disputes considered to have lapsed	1	
6.	Disputes being dealt with by conciliation officers as of 31 December, 1983	0	
	TOTAL	1	1

Requests for the Appointment of Arbitrators Under The Fishing Industry (Collective Bargaining) Act

1. On 14 January, 1983, the Minister received a request from the Newfoundland Fishermen, Food and Allied Workers Union, St. John's, for the appointment of a single arbitrator to deal with a grievance between that Union and Fishery Products Limited, Marystown.

   The Minister referred the matter to the Company for their comments and on 28 January, 1983, appointed Mr. Gordon G. Easton, Q.C., as sole arbitrator.

2. On 14 January, 1983, the Minister received a request from the Newfoundland Fishermen, Food and Allied Workers Union, St. John's, for the appointment of a single arbitrator to deal with a grievance between that Union and Fishery Products Limited, Burin.

   The Minister referred the matter to the Company for their comments and on 28 January, 1983, appointed Mr. Gordon G. Easton, Q.C., as sole arbitrator.

Report of the matters transacted by the Minister of Labour and Manpower during 1983 under the provisions of The Newfoundland Teacher (Collective Bargaining) Act, 1973

This report is presented in accordance with Section 35 of that Act.

Conciliation

Pursuant to the provisions of The Newfoundland Teacher (Collective Bargaining) Act, the Minister received the following request for conciliation services during 1983 seeking assistance toward the settlement of a labour dispute involving the following parties:-

1. The Newfoundland Teachers' Association and School Board Committee (Roman Catholic School Board, Labrador and Labrador West Integrated School Board).

Disputes referred to Conciliation Officers under The Newfoundland Teacher (Collective Bargaining) Act

1.	Disputes in progress as of 31 December, 1982		1
2.	Disputes referred to conciliation officers during 1983		1
3.	Disputes resolved at conciliation officer level	0	
4.	Disputes referred to conciliation board after being dealt with by conciliation officers	1	
5.	Disputes being dealt with by conciliation officers as of 31 December, 1983	1	
	TOTAL	2	2

Appointed under The Newfoundland Teacher (Collective Bargaining) Act

Conciliation Board

1. The Newfoundland Teachers' Association and School Board Committee (Roman Catholic School Board, Labrador and Labrador West Integrated School Board).

Chairman	John Roil, LL.B., Q.C.
Union Representative	Francis O'Dea, LL.B.
Employer Representative	Michael Harrington, LL.B.

REPORT OF THE PROCEEDINGS OF THE LABOUR STANDARDS BOARD COVERING THE CALENDAR YEAR, 1983

The Labour Standards Board established under authority of The Labour Standards Act consists of three members, one who is representative of the interests of employers, one representative of the interests of employees, and one designated as Chairman, who shall be independent.

The function of the Board is to advise Government on Labour Standards matters generally and in particular minimum wages.

During the year 1983, the following persons comprised the membership of the Labour Standards Board:-

Donald I. Dooley, chairman
Howard Crane, representative of employers
Reginald Anstey, representative of employees
Robert Forward, Assistant Director of Labour Standards, Department of Labour and Manpower, acted as Secretary of the Board.

The current minimum wage rates became effective on 1 January, 1983, when they were raised from $3.45 to $3.75 an hour for employees over the age of sixteen years and from $1.73 to $2.25 an hour for persons employed in domestic services in private homes. These increases were the results of recommendations made by the Board on 13 July, 1982. The Board also recommended at that time that the rate be further increased from $3.75 an hour to $4.00 an hour on 1 September, 1983, however, this was not implemented.

There was no minimum wage review undertaken during 1983.

The Board held four meetings during 1983; those were mainly taken up with matters relating to investigations into certain aspects of the Beauty Culture Trade, and two requests

respecting minimum wage exemptions on behalf of handicapped persons. Also plans were discussed for another Minimum Wage Review to be undertaken in early 1984. As well, the Chairman and Secretary attended the annual Atlantic Conference of Minimum Wage Board Chairmen which was held at Charlottetown, Prince Edward Island on 11 and 12 October, 1983.

I take this opportunity to express the Board's appreciation for the assistance and co-operation extended to the Board by the Minister of Labour and Manpower and officers of the Department of Labour and Manpower during the past year.

Dated at St. John's this 10th day of February, 1984.

Respectfully submitted,

Donald Dooley

Donald I. Dooley
Chairman
Labour Standards Board

Report of The Labour Relations Board from 1 January, 1983 to 31 December, 1983

The Labour Relations Board was established under the provisions of The Labour Relations Act, 1977. The Board has the responsibility for certain provisions of (1) The Labour Relations Act, 1977, (2) The Fishing Industry (Collective Bargaining) Act, 1971, (3) The Public Service (Collective Bargaining) Act, 1973, and (4) The Newfoundland Teacher (Collective Bargaining) Act, 1973.

Under The Labour Relations Act, the Board has the responsibility for the administration of the provisions which concern (1) the certification of unions as the bargaining agent for the appropriate units of employees so that such agents may bargain collectively with the employers of the affected employees; (2) the issuing of orders of revocation of certification upon application by an interested party or parties in cases where certified unions cease to maintain a majority of the members in the appropriate units for which they were certified; (3) the termination of bargaining rights of unions who have been recognized voluntarily by the employer or employers in question who are party to collective agreements but who no longer represent a majority of the employees in the particular bargaining unit; (4) the writing into collective agreements of the procedures for the final settlement of disputes concerning the interpretation of clauses of collective agreements or the violation of such clauses; (5) the investigation of complaints referred to it by the Minister of Labour and Manpower that a party has failed to bargain collectively and make every reasonable effort to conclude a collective agreement; (6) the giving of consent to parties to a collective agreement that they may terminate an agreement within a period less than one year from its commencement; (7) the giving of consent to employers to alter rates of wages, or any other term or condition of employment of employees covered by an application for certification which is pending before the Board; (8) the issuance of orders declaring an undertaking for the construction of works for the development of a natural resource or the establishment of a primary industry to be a special project;

(9) the accreditation of an employer's organization as the bargaining agent for employers in the appropriate sector of the construction industry so that such agents may bargain collectively with the bargaining agent or agents of their employees; and (10) the amending and varying of orders, decisions and certificates which have been issued by the Board.

The Board also has the responsibility for administering provisions similar to those mentioned above, under The Fishing Industry (Collective Bargaining) Act, 1971; and The Newfoundland Teachers (Collective Bargaining) Act, 1973; and The Public Service (Collective Bargaining) Act, 1973. Under this latter Act, the Board is also responsible for the issuing of orders declaring certain employees within a bargaining unit or bargaining units to be essential employees for the health, safety or security of the public.

The Newfoundland Labour Relations Board has authority to determine the proper time for making application for certification, under certain conditions; to determine the appropriateness of a unit of employees for collective bargaining; to conduct representation votes among employees to determine whether bargaining agents have the support of a majority of employees affected; to reject as bargaining agents unions which are dominated or influenced improperly by employers; to determine who is a member in good standing of a union and to determine who is an employee or an employer within the meaning of the various Acts.

In addition, the Board has made rules prescribing the procedures to be followed in respect of the administrative functions of the Board. These Rules of Procedure includes for example provisions for determing a member in good standing of a trade union or association; a quorum of the Board; and, the powers and duties of the Chief Executive Officer and the Secretary of the Board.

The Board consists of five regular members; two representatives of employers; two representatives of employees, and an independent chairman. The personnel who served as regular members on the Board during 1983 were: R. Gosse and F. W. Russell, representing employers;

G. Gillingham and J. Walsh, representing employees. Gordon G. Easton, Q.C. served as Chairman of the Board during 1983.

The Board is also comprised of a Vice-Chairman and two alternate members, one representative of employers and one representative of employees, who serve on the Board in the absence of regular members. During the year, under review, Charles W. White served as Vice-Chairman; W. A. Alcock and F. Bowdring served as alternate representatives for employers and employees respectively.

The administrative duties and functions of the Board are supervised by the Chief Executive Officer with the aid of the Secretary. During 1983, J. M. Noel was the Chief Executive Officer and W. Fowler served as Secretary.

The full-time staff of the Board consists of four persons which includes the Chief Executive Officer and the Secretary, an Investigating Officer and Clerk-Stenographer.

Staff members of the Department of Labour and Manpower are seconded on a temporary basis to act as Investigating Officers and Returning Officers for the Board when required.

During the year, the Board held fifty (50) days of meetings. Schedules detailing the activities of the Board are attached.

Dated at St. John's this 10th day of February, 1984, A.D.

Respectfully submitted,
Labour Relations Board

GORDON G. EASTON, Q.C.,
CHAIRMAN

Schedule "A"

The Labour Relations Act

Statement of proceedings before the Board during the year 1983

Applications for Certification

1.	Number of applications pending at 1 January, 1983	13	
2.	Number of applications filed during the year	61	
3.	Total applications for certifications		74
4.	Number of applications granted	42	
5.	Number of applications rejected	4	
6.	Number of applications withdrawn	9	
7.	Number of applications removed	2	
8.	Total applications dealt with by the Board		57
9.	Number of applications pending 31 December, 1983		17

Applications for Revocation of Certification

1.	Number of applications pending at 1 January, 1983	4	
2.	Number of applications filed during the year	7	
3.	Total applications for revocation of certification		11
4.	Number of applications granted	4	
5.	Number of applications rejected	3	
6.	Number of applications withdrawn	2	
7.	Number of applications lapsed	1	
8.	Total applications dealt with by the Board		10
9.	Number of applications pending at 31 December, 1983		1

Miscellaneous Applications

1.	Applications pending at 1 January, 1983	20	
2.	Applications under Section 18 - Reconsideration of Decision	7	
3.	Applications under Section 69 - Determination of Special Project	1	
4.	Applications to change name of trade union on certification order	2	
5.	Applications to change name of employer on certification order	1	
6.	Applications under Section 85 - Matter referred to Board by Arbitrator	3	
7.	Applications under Section 89 - Transfer of Ownership	4	
8.	Applications under Section 118 - Unfair Labour Practices	26	
9.	Applications under Section 126 - Complaint against a bargaining agent for failure to act in good faith in handling of a grievance	5	
10.	Total Miscellaneous Applications		69
11.	Total Miscellaneous Applications dealt with by the Board		48
12.	Total Miscellaneous Applications pending at 31 December, 1983.		21
	Number of Representation Votes conducted in 1983		8
	Appriximate number of employees affected by certification orders issued in 1983		1,087

Schedule "B"

Labour Relations Act

Statement of Proceedings before the Board during 1983

Applications for Certification - Granted

1. International Brotherhood of Electrical Workers, Local 1620 and Brake's Construction (1981) Limited.

Bargaining Unit

A unit of employees of Brake's Construction (1981) Limited comprising all employees save and except Manager, Office Staff, Non-working Foremen, and those above the rank of Non-working Foremen. There are 10 employees in the bargaining unit.

2. International Union of Operating Engineers, Local 904 and Dexter Construction Company Limited, Bedford, NS.

Bargaining Unit

A unit of employees of Dexter Construction Company Limited, Bedford, NS, comprising all employees save and except President, Office Staff, Non-working Foremen and those above the rank of Non-working Foremen employed by the Company in the Province of Newfoundland. There are 44 employees in the bargaining unit.

3. Newfoundland Association of Public Employees and Beaver Foods Limited, St. John's.

Bargaining Unit

A unit of employees of Beaver Foods Limited, St. John's comprising all employees employed by Beaver Foods Limited at Memorial University save and except Manager, Confidential Secretaries, Manager Trainees, Chefs, Supervisors Employees working less than twenty (20) hours per week and those above the rank of Supervisors.

A representation vote was held in this case. There are 102 employees in the bargaining unit.

4. International Union of Operating Engineers, Local 904 and Wells Construction A.V. Limited, Brigus.

Bargaining Unit

See next page.

Bargaining Unit

A unit of employees of Wells Construction A.V. Limited, Brigus comprising all employees save and except Manager, Non-working Foremen and those above the rank of Non-working Foremen employed by the Company in the Province of Newfoundland. There are 7 employees in the bargaining unit.

5. International Union of Bricklayers and Allied Craftsmen, Local #1, Newfoundland and Labrador and Ornamental Concrete Limited, St. John's.

Bargaining Unit

A unit of employees of Ornamental Concrete Limited, St. John's, comprising Masons employed by the Company in the Province of Newfoundland. There are 4 employees in the bargaining unit.

6. United Brotherhood of Carpenters and Joiners of America and Cape Pine Electrical Limited, St. John's.

Bargaining Unit

A unit of employees of Cape Pine Electrical Limited, St. John's, comprising Carpenters, Carpenter Apprentices and working Carpenter Foremen employed by the Company in the Province of Newfoundland. There are 7 employees in the bargaining unit.

7. International Union of Bricklayers and Allied Craftsmen, Local #1, Newfoundland and Labrador and Pinsent Construction Company Limited, Stephenville.

Bargaining Unit

A unit of employees of Pinsent Construction Company Limited, Stephenville comprising Bricklayers and Masons. There are 4 employees in the unit.

8. Newfoundland Association of Public Employees and Burgeo Integrated School Board.

Bargaining Unit

A unit of employees of Burgeo Integrated School Board comprising all employees save and except Business Manager and employees covered by subsisting collective agreements. There are 5 employees in the bargaining unit.

9. International Brotherhood of Electrical Workers, Local Union 2330 and Gold River Construction Limited, Ontario.

Bargaining Unit

A unit of employees of Gold River Construction Limited, Ontario, comprising Electricians, Electrician Apprentices, Working Electrical Foremen, Electrical Foremen, and General Electrical Foremen employed in the Industrial and Commercial Sector of the Construction Industry in the Province of Newfoundland excluding Office Staff and employees engaged in Mining. There are 2 employees in the Bargaining Unit.

10. United Brotherhood of Carpenters and Joiners of America, Local 579 and Thomas Fuller Construction Company, (1958) Limited, Ottawa.

Bargaining Unit

A unit of employees of Thomas Fuller Construction Company (1958) Limited, Ottawa, comprising Carpenters, Carpenter Apprentices, and working Carpenter Foremen employed by the Company in the Province of Newfoundland. There are 5 employees in the bargaining unit.

11. Newfoundland Association of Public Employees and Alcohol & Drug Dependency Commission, St. John's.

Bargaining Unit

A unit of employees of Alcohol & Drug Dependency Commission, St. John's, comprising all employees save and except Commissioner, Executive Director, Director of Regional Services, Business Manager, and Confidential Secretary. There are 10 employees in the Bargaining Unit.

12. International Association of Bridge, Structural and Ornamental Iron Workers, Local Union No. 764 and Raymond Steel Limited, Ontario.

Bargaining Unit

A unit of employees of Raymond Steel Limited, Ontario, comprising Ironworkers employed by the employer in the Industrial and Commercial Division of the Construction Industry in the Province of Newfoundland. There are 9 employees in the Bargaining Unit.

13. United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 740 and E. F. Lidstone Limited, Stephenville.

Bargaining Unit

A unit of employees of E. F. Lidstone Limited, Stephenville comprising of Plumbers. There are 4 employees in the bargaining unit.

14. Canadian Union of Public Employees, Local 2768 and Town of Gambo.

Bargaining Unit

A unit of employees of the Town of Gambo comprising all employees save and except Town Clerk, Town Superintendent, Non-working Foremen and those above the rank of Non-working Foremen. There are 6 employees in the bargaining unit.

15. Newfoundland Association of Public Employees and The Town Council of Town of St. Lawrence.

Bargaining Unit

A unit of employees of The Town Council of The Town of St. Lawrence comprising all employees save and except Town Manager, Town Clerk, Non-working Foremen and those above the rank of Non-working Foremen. There are 7 employees in the bargaining unit.

A hearing was held in connection with this case.

16. International Union of Operating Engineers, Local 904 and Groupco Inc., Montreal.

Bargaining Unit

A unit of employees of Groupco Inc., Montreal, comprising Operators employeed by the employer in the Province of Newfoundland. There are 2 employees in the bargaining unit.

17. Construction General Labourers' Rock and Tunnel Workers, Local 1208 and Pennecon Limited, St. John's.

Bargaining Unit

A unit of employees of Pennecon Limited, St. John's, comprising Mechanics, Truck Drivers, Operators, Cutters and Labourers employed by the Company at Bishop's Falls save and except Non-working Foremen and those above the rank of Non-working Foremen. There are 15 employees in the bargaining unit.

A hearing was held in connection with this case.

18. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local 203 and Marshall Industries Limited, Labrador City.

Bargaining Unit

A unit of employees of Marshall Industries Limited, Labrador City, comprising Boilermakers, employed by the employer in the Province of Newfoundland. There are 36 employees in the bargaining unit.

19. Transport and Allied Workers Union, Local 855, affiliated with the International Brotherhood of Teamsters, Chaffeurs, Warehousemen and Helpers of America and Atlantic Concrete: A division of The Lundrigan Group Limited, Corner Brook.

Bargaining Unit

A unit of employees of Atlantic Concrete: a division of The Lundrigan Group Limited, Corner Brook, comprising all employees save and except Manager, Non-working Foremen and those above the rank of Non-working Foremen employed by the Company in St. John's. There are 30 employees in the bargaining unit.

20. International Union of Operating Engineers, Local 904 and Mojan (1981) Limited, Montreal.

Bargaining Unit

A unit of employees of Mojan (1981) Limited, Montreal, comprising Labourers. There are 2 employees in the bargaining unit.

21. Newfoundland Association of Public Employees and Town of Paradise.

Bargaining Unit

A unit of employees of the Town of Paradise comprising all employees save and except Town Manager. There are 5 employees in the bargaining unit.

22. Newfoundland Association of Public Employees and Cape Freels Integrated School Board, Badger's Quay.

Bargaining Unit

A unit of employees of Cape Freels Integrated School Board, Badger's Quay, comprising all full time and Regular part time employees save and except Superintendent, Assistant Superintendent, Business Manager, Confidential Secretary, and employees covered by subsisting collective agreements. There are 17 employees in the bargaining unit.

23. International Association of Bridge, Structural and Ornamental Iron Workers, Local Union No. 764 and Nordic Construction Limited, St. John's.

Bargaining Unit

A unit of employees of Nordic Construction Limited, St. John's, comprising Ironworkers. There are 3 employees in the bargaining unit.

24. United Brotherhood of Carpenters and Joiners of America, Local 579 and Aylward Homes Limited, St. John's.

Bargaining Unit

A unit of employees of Aylward Homes Limited, St. John's, comprising Carpenters, Carpenter Apprentices, Working Carpenter Foremen. There are 6 employees in the bargaining unit.

25. Newfoundland Association of Public Employees and The Town of Grand Bank.

Bargaining Unit

A unit of employees of The Town of Grand Bank comprising all employees save and except Town Clerk, Superintendent of Works, Non-working Foremen and those above the rank of Non-working Foremen. There are 9 employees in the bargaining unit.

26. United Brotherhood of Carpenters and Joiners of America, Local 579 and Richard & B. A. Ryan (Atlantic Limited), Saint John, NB.

Bargaining Unit

A unit of employees of Richard & B. A. Ryan (Atlantic Limited), Saint John, NB, comprising Carpenters, Carpenter Apprentices and Working Carpenter Foremen employed by the Company in the Province of Newfoundland save and except employees covered by the certification order issued to United Steelworkers of America, Local 6185, on the 28th day of May, 1962. There are 7 employees in the bargaining unit.

27. Newfoundland Association of Public Employees and Burin Peninsula Integrated School Board.

A unit of employees of Burin Peninsula Integrated School Board comprising all employees save and except Business Manager, Assistant Business Manager, Confidential Secretary, Non-working Foremen and those above the rank of Non-working Foremen. There are 13 employees in the bargaining unit.

28. Canadian Paperworkers Union, Local 155 and Newfont Limited, Stephenville.

Bargaining Unit

A unit of employees of Newfont Limited, Stephenville, comprising all employees save and except President, Vice-President, Secretary-Treasurer, Plant Manager, Office Staff, Non-working Foremen and those above the rank of Non-working Foremen. There are 11 employees in the bargaining unit.

29. United Brotherhood of Carpenters and Joiners of America, Loggers' Local 2564 and T. & G. Woodworkers, Appleton.

Bargaining Unit

A unit of employees of T. & G. Woodworkers, Appleton, comprising all employees save and except Manager, Non-working Foremen and those above the rank of Non-working Foremen, There are 9 employees in the bargaining unit.

30. Canadian Merchant Service Guild and L. Gates Limited, Little Bay Islands.

Bargaining Unit

A unit of employees of L. Gates Limited, Little Bay Islands, comprising Captains and Engineers. There are 4 employees in the bargaining unit.

31. Transport and Allied Workers, Local 855 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and Moffatt Brothers Moving and Storage Limited, Bishop's Falls.

Bargaining Unit

A unit of employees of Moffatt Brothers Noving and Storage Limited, Bishop's Falls, comprising all employees save and except Manager, Office Staff, Non-working Foremen and those above the rank of Non-working Foremen employed by the Company at Bishop's Falls. There are 6 employees in the bargaining unit.

32. International Brotherhood of Electrical Workers, Local Union 2330 and D. H. Electric Limited, Sunnyside.

Bargaining Unit

A unit of employees of D. H. Electric Limited, Synnyside, comprising Electricians, Electrician Apprentices and Working Electrician Foremen. There are 6 employees in the bargaining unit.

A hearing was held in connection with this case.

33. Transport and Allied Workers, Local 855, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and helpers of America and Moffatt Brothers Moving and Storage Limited, Corner Brook.

Bargaining Unit

A unit of employees of Moffatt Brothers Moving and Storage Limited, Corner Brook, comprising all employees save and except Manager, Office Staff, Non-working Foremen and those above the rank of Non-Working Foremen employed by the Company at Corner

Brook. There are 20 employees in the bargaining unit.

34. United Brotherhood of Carpenters and Joiners of America, Local 579 and D. & D. Electrical Contractors Limited, Glovertown.

Bargaining Unit

A unit of employees of D. & D. Electrical Contractors Limited Glovertown, comprising Carpenters, Carpenter Apprentices, and Working Carpenter Foremen. There are 13 employees in the bargaining unit.

35. Newfoundland Association of Public Employees and Ramea Integrated School Board.

Bargaining Unit

A unit of employees of Ramea Integrated School Board comprising all full-time and regular part-time janitors save and except Non-working Foremen and those above the rank of Non-working Foremen. There are 4 employees in the bargaining unit.

36. Newfoundland Fishermen, Food and Allied Workers, Local 1252 Chartered by United Food and Commercial Workers, International Union and North Atlantic Fisheries Limited, St. John's.

Bargaining Unit

A unit of employees of North Atlantic Fisheries Limited comprising all employees save and except Manager, Office Staff, Chief Engineer, Quality Assurance Supervisor, Non-working Foremen and those above the rank of Non-working Foremen employed by the Company at its Black Tickle fish plant. There are 74 employees in the bargaining unit.

37. Communications Workers of Canada, Local 410 and Newfoundland Telephone Company Limited, St. John's.

Bargaining Unit

A unit of employees of Newfoundland Telephone Company Limited, St. John's, comprising all employees of the employer working in Operator Services including Operators, Service Analysts, Traffic Officer Clerk, and Supervisor, and excluding Manager, Operator Services; Assistant Manager, Operator Services; Network Manager, Network Operations; and Operator Services Manager, and Vice President, Network Services.

A hearing was held and a representation vote was conducted in this case. There are 122 employees on the bargaining unit.

Reasons for decision were issued in this case and are attached as Appendix 1 of Schedule "B".

38. Communications Workers of Canada, Local 410 and Newfoundland Telephone Company Limited, St. John's.

Bargaining Unit

A unit of employees of Newfoundland Telephone Company Limited, St. John's, comprising all employees of the employer save and except those working in the Operator Services bargaining unit, Management Employees (Level 1 and above), Office Staff, and Clerical Staff but including Cable Repairman, Combination Man, Facilities Man, Installer 1 (P.B.X., Installer), Network Equipment Installer, Network Services Technician, Repairman 1 (P.B.X., Repairman), Special Services Technician, Splicer, Tester, Installer 11 (Station Installer), Installer Repairman 11, Lineman, Records Man, Repairman II (Station Repairman), Frameperson, Telephone Instrument Repairman, Building Equipment Man, Building Maintenance Man, Mechanic, Stockman, Storekeeper, Garage Service Man, House Services Man, and Senior House Services Man.

A hearing and a representation vote was conducted in this case. There are 396 employees in the bargaining unit.

Reasons for decision were issued in this case and are attached as Appendix 1 Schedule "B".

39. International Union of Operating Engineers, Local 904 and Jones Construction Limited, Pasadena.

Bargaining Unit

A unit of employees of Jones Construction Limited, Pasadena, comprising all employees save and except President, Vice-President, Office Staff, Non-working Foremen and, those above the rank of Non-working Foremen.

A representation vote was conducted in this case. There are 25 employees in the bargaining unit.

40. Newfoundland Association of Public Employees and Grand Bank Recreation Commission.

Bargaining Unit

A unit of employees of Grand Bank Recreation Commission comprising all employees save and except Recreation Director. There are 3 employees in the bargaining unit.

41. United Brotherhood of Carpenters and Joiners of America, Local 579 and Tri City Construction Limited, St. John's.

Bargaining Unit

A unit of employees of Tri City Construction Limited, St. John's, comprising Carpenters, Carpenter Apprentices, and Working Carpenter Foremen. There are 19 employees in the bargaining unit.

42. International Brotherhood of Electrical Workers, Local 2330 and D. & D. Electrical Contractors Limited,Glovertown.

Bargaining Unit

A unit of employees of D. & D. Electrical Contractors Limited, Glovertown comprising Electricians, Electrican Apprentices, and Working Electrician Foremen. There are 4 employees in the bargaining unit.

Applications for Certification - Rejected

1. Industrial Union of Marine and Shipbuilding Workers of Canada, Local 20 and Royal Garage Limited, St. John's.

Decision:

The Board was satisfied that the by-laws of the Industrial Union of Marine and Shipbuilding Workers of Canada, Local 20, were not broad enough to encompass the classifications of employees applied for and rejected the application. A hearing was held in this case.

2. Transport and Allied Workers, Local 855 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and Hickman Motors Limited, St. John's.

Decision:

The Board, following investigation and consideration of the representations of the interested parties, determined that the parties are bound by the certification order issued to the applicant on 21st day of June, 1972 affecting Hickman Motors Limited and rejected the application.

3. Retail, Wholesale and Department Store Union, Local 597 and Tooton's Limited, St. John's.

Decision:

The Board was satisfied that the Applicant did not represent a majority of the employees in the proposed bargaining unit and rejected the application.

A representation vote was conducted in this case.

4. Retail, Wholeslae and Department Store Union, Local 597 and Answer Telephone Service Limited, St. John's.

Decision:

The Board was satisfied that the Applicant did not represent a majority of employees in the proposed bargaining unit, and rejected the application.

A representation vote was conducted in this case.

Applications for Certification - Withdrawn

1. International Brotherhood of Electrical Workers, Local 2330, and R. Sheppard and Associates Limited.

2. United Brotherhood of Carpenters and Joiners of America, Local 579 and Elliston Development Limited, St. John's.

3. International Union of Bricklayers and Allied Craftsman, Newfoundland and Labrador, Local 1 and Jack Green Limited, St. John's.

4. Construction General Labourers' Rock and Tunnel Workers, Local 1208 and Jack GreenLimited, St. John's.

5. Local Union No. 1984, International Brotherhood of Painters and Allied Trades and Whittle Brothers.

6. Construction General Labourers', Rock and Tunnel Workers, Local 1208 and M & J Construction, Corner Brook.

7. International Brotherhood of Electrical Workers, Local 2330 and D. Squires.

8. International Brotherhood of Electrical Workers, Local 2330 and Brite Electrical Limited.

9. United Brotherhood of Carpenters and Joiners of America, Local 579 and E. W. Adams and Sons Limited, Grand Falls.

Applications for Certification - Lapsed

1. Newfoundland Fishermen, Food and Allied Workers chartered by United Food and Commercial Workers International Union and Bonaventure Seafoods Limited, Trouty, Trinity Bay.

2. International Union of Operating Engineers, Local 904 and Bennett and Wright, Grand Falls and Construction and General Labourers, Rock and Tunnel Workers, Local 1208.

Applications for Certification - Pending

1. International Union of Operating Engineers, Local 904 and Gold River Construction Limited, Jacksons Arm.

2. Communications Workers of Canada, Local 410 and Newfoundland Telephone Company Limited.

3. International Brotherhood of Electrical Workers, Local 2351 and Churchill Falls Labrador Corporation.

4. Newfoundland Association of Public Employees and Port aux Port Roman Catholic School Board, Stephenville.

5. Local Union No. 351, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers and Herb White Distributors Limited.

6. Local Union No. 351, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers and Bob Morrissey Distributors Limited.

7. Local Union No. 351, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers and Eugene McGrath Distributors Ltd.

8. Local Union No. 351, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers and Kevin Williams Distributors Limited.

9. Local Union No. 351, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers and Pat Hearn Distributors Limited.

10. Local Union No. 351, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers and E. & H. Enterprises Limited.

11. Local Union No. 351, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers and K. & P. Enterprises Limited

12. Canadian Paperworkers Union, Local 157 and Vanguard Paper Box Limited, Donovan's Industrial Park.

13. Construction and General Labourer's Rock and Tunnel Workers Union, Local 1208 and Dalewood Contracting Limited.

14. United Brotherhood of Carpenters and Joiners of America, Local 579 and Trend Construction Limited, "General".

15. International Union of Bricklayers and Allied Craftsmen, Local #1, Newfoundland and Labrador and Dalewood Contracting Limited.

16. International Association of Bridge, Structural and Ornamental Iron Workers, Local Union 764 and Easteel Industries Limited, St. John's.

17. International Association of Bridge, Structural and Ornamental Iron Workers, Local Union 764 and E. F. Barnes Limited.

Applications for Revocation of Certification - Granted

1. Louis Walsh, et al., and Seafarers' International Union, of Canada and Weir's Shipping Limited, Little Bay Islands.

Decision:

The Board was satisfied that the Respondent no longer represented a majority of the employees in the certified bargaining unit and revoked the certification order.

There was a hearing held in this case.

2. John G Pardy, et al, and Newfoundland Union of School Board and Public Employees, and Town Council of Grand Bank.

Decision:

The Board was satisfied that the Respondent had lost the support of a majority of the employees in the bargaining unit and terminated the bargaining rights of the Newfoundland Union of School Board & Public Employees.

3. Michael Manning, et al., and Construction General Labourers' Rock and Tunnel Workers, Local 1208 and Atlantic Concrete and Newfoundland Rebar: divisions of The Lundrigan Group Limited, Corner Brook.

Decision:

The Board was satisfied that the Respondent had lost the support of the majority of the employees in the bargaining unit, and terminated the bargaining rights of construction General Labourers Rock and Tunnel Workers, Local 1208.

A representation vote was conducted in this case.

4. Bob LeDrew, et al., and Sheet Metal Workers International Association, Local 512 and E. & G. Burner Service Limited (formerly C/A. Hubley Limited and R.E. Mercer Limited).

Decision:

The Board was satisfied that the Respondent had lost the support of a majority of employees in the bargaining unit; and revoked the certification order.

There was a hearing and a representation vote held in this case.

Applications for Revocation of Certification - Rejected

1. David W. Cole, et al., and Newfoundland Association of Public Employees, and Board of Management of Masonic Park Complex, Mount Pearl.

Decision:

The Board was not prepared, pursuant to Section 52 of the Act, to accept the application.

2. Barbara Johnson, et al., and Retail, Wholesale and Department Store Union, Local 597 and Anlific (Nfld.) Limited operating under the firm name and style of Holiday Inn, Corner Brook.

Decision:

The Board was not prepared, pursuant to Section 52(C) of the Act, to accept the application.

3. Irene Genge, et al., and Newfoundland Fishermen, Food and Allied Workers, Local 1252, chartered by United Food and Commercial Workers International Union and T. J. Hardy Limited, Port aux Basques.

Decision:

The Board was not satisfied that the Union had lost the support of a majority of the employees in the bargaining unit and rejected the application.

Applications for Revocation of Certification - Withdrawn

1. Cyril Butler et al and International Association of Machinists and Aerospace Workers, Westside Lodge Local 544 and C-Brook Pontiac Buick Limited, Corner Brook.

2. Olive Burton et al. and Newfoundland Fishermen, Food and Allied Workers, Local 1252 and National Sea Products Limited, St. John's.

Applications for Revocation of Certification - Lapsed

1. Real Ste-Marie Construction Limited, Labrador City and United Steelworkers of America, Local 6185.

Applications for Revocation of Certification - Pending

1. Terry Kettle, et al and Retail, Wholesale and Department Store Union, Local 597 and A. J. Coleman and Sons Limited.

Applications under Section 18 - Reconsiderations and Amendments of Decisions

1. Masonic Park, Mount Pearl and Newfoundland Association of Public Employees.

Decision:

The Board, following investigation and consideration of the representations of the interested parties, saw no reason to exclude the employees working at the rental cottage units and rejected the application and ordered that the certification order dated 26 August, 1982 be amended by deleting "Board of Management, Masonic Park Complex" and inserting therefor "Masonic Park."

2. Newfoundland Association of Public Employees and Canadian Red Cross Blood Transfusion Services, St. John's.

Decision:

The Board, following investigations, and consideration of the representations of the interested parties, ordered that the classification of Lab Helper/Clinic Assistant be included in the bargaining unit.

On 29 June, 1983, following consideration of the representations of the interested parties and a hearing, the Board decided to rescind the above order.

Reasons for decision are attached as Appendix 2 of Schedule B.

3. International Brotherhood of Electrical Workers, Local 2351 and Churchill Falls (Labrador) Corporation Limited, St. John's.

Decision:

The Board, following consideration of the representations of the interested parties and a hearing, saw no reason to amend its order of 12 September, 1979 and rejected the application.

A hearing was held in connection with this case.

4. International Brotherhood of Electrical Workers, Local 2351 and Churchill Falls (Labrador) Corporation Limited, St. John's.

Decision:

The Board, following consideration of the representations of the interested parties saw no reason to alter its original decision and rejected the application. A hearing was held in this case.

5. International Brotherhood of Electrical Workers, Local 2351, and Churchill Falls (Labrador) Corporation Limited, St. John's.

Decision:

The Board, following consideration of the representations of the interested parties saw no reason to rescind its order of 21 May, 1974 and rejected the application.

A hearing was held in connection with this case.

6. Construction General Labourers' Rock and Tunnel Workers, Local 1208, and Newfoundland Association of Public Employees.

Decision:

The Board noted the agreement of the parties and has agreed to amend the said bargaining unit to include all employees save and except full time elected officers.

7. Charles Fost and Hotel and Restaurant Employees and Bartenders International Union, Local 779.

Decision:

The Board, pursuant to Section 41 of the Board's Rules of Procedure was not prepared to accept the application and the application was rejected.

8. The Town of Grand Bank and Newfoundland Association of Public Employees.

Decision:

The Board sees no reason to alter its original decision and rejected the application.

Applications Pending Before the Board

1. Newfoundland Association of Public Employees and Canadian Red Cross Blood Transfusion Service.

2. Office and Professional Employees International Union, Local 255 and Abitibi-Price Inc., Grand Falls.

3. Canadian Union of Public Employees and United Church Group Home.

4. Newfoundland Association of Public Employees and Town of Paradise.

Applications under Section 69 - Determination of Special Project

1. Gold River Construction Limited and Newfoundland and Labrador Hydro, et al.

   The matter is pending before the Board.

Applications Pursuant to Section 91 Change of Name or Affiliations of Trade Union

1. United Food and Commercial Workers Union, Local 1973 B and Dominion Stores Limited, Labrador City.

Decision:

Pursuant to Section 91 of the Act, the Board ordered that the Certirication order issued on the 16th day of August, 1978 be amended by deleting Retail Clerks Union, Local 1973 B and substituting therefor United Food and Commercial Workers Union, Local 1973 B.

2. Local Union No. 355, Canadian Union of Untied Brewery, Flour, Cereal, Soft Drink and Distillery Workers and Wometco Newfoundland Limited, St. John's.

Decision:

The Board ordered that the certification orders issued to Local Union No. 353, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers covering employees employed at St. John's Corner Brook and Bishop Falls be amended by deleting Local Union No. 353, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers and substituting therefor local Union No. 355, Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers.

3. Marquis Limited, Grand Falls and Hotel, Restaurant Employees and Bartenders International Union, Local 807.

   The matter was lapsed.

Application to have Employee's Name Changed on a Certification Order

1. United Steelworkers of America, Local Union 7713 and Baie Verte Mines Inc.

Decision:

The Board ordered that the certification order be amended by deleting Advocate Mines Limited and substituting therefor Baie Verte Mines Inc.

2. United Steelworkers of America and Real Ste-Marie Limited, Labrador City.

   The matter was lapsed.

Applications pursuant to Section 85 of the Act

1. Paul Dicks, and International Brotherhood of Electrical Workers, Local 2330 and Bob's Electric Limited, Corner Brook.

Decision:

The Board ordered that Bob's Electric Limited, Corner Brook was bound by the collective agreement effective October 7, 1982 to april 30, 1985, between International Brotherhood of Electrical Workers, Local 2330 and Newfoundland Construction Labour Relations Association.

A hearing was held in connection with this case.

Reasons for decision were issued and are attached as Appendix 3 of Schedule B.

2. Cyril Strong and Sheet Metal Workers International Union, Local 512 and M & S Sheet Metal Limited.

Decision:

The Board ordered that M & S Sheet Metal Limited was bound by the collective agreement effective May 31, 1982 to April 30, 1985, between Sheet Metal Workers International Union, Local 512 and Newfoundland Construction Labour Relations Association.

A hearing (unattended by the respondent) was held in connection with the case.

3. United Brotherhood of Carpenters and Joiners of America, Local 579 and Newfoundland Engineering and Construction Limited.

The matter was lapsed.

4. Newfoundland Fishermen Food and Allied Workers, Local 1252 and The Lake Group limited.

The matter was lapsed.

5. F. R. Woolridge and International Brotherhood of Electrical Workers, Local 2330 and Dominion Engineering Company Limited.

The matter is pending before the Board.

Applications pursuant to Section 89 of the Act

1. International Association of Machinists and Aerospace Workers, Westside Lodge 544 and E.S. B. Enterprises Limited, Grand Falls.

Decision:

The Board was satisfied that the said certification order does not apply to E.S.B. Enterprises Limited; and rejected the application.

2. International Brotherhood of Painters and Allied Trades, Local 1984 and Whittle Brothers.

Decision:

The application was withdrawn.

3. Newfoundland Fishermen, Food and Allied Workers, Local 1252 and Atlantic Fisheries Limited.

The matter is pending before the Board.

4. United Food and Commercial Workers, Local 1973B and Carol Wabush Co-operative Society Limited.

The matter is pending before the Board.

5. United Steelworkers of America, Local 7721 and Royal Trust, St. John's.

The matter is pending before the Board.

Applications under Section 118 - Unfair Labour Practice

1. International Association of Machinists and Aerospace Workers, Westside Lodge 544 and Beothuck Ford Sales Limited, Grand Falls.

Decision:

The Board was satisfied that Beothuck Ford Sales Limited, Grand Falls, has not violated Sections 23(1) (a) and 24 (1) (a) of the Act and rejected the application.

A hearing was held in connection with this case. Reasons for decision were issued and are attached as Appendix 4, Schedule B.

2. Newfoundland Fishermen, Food and Allied Workers, Local 1252 chartered by United Food and Commercial Workers International Union and Triton Seafoods Limited.

Decision:

The Board was satisfied that Triton Seafoods Limited has not violated Sections 24(1)(a) and (b), 25(2)(a) and (b), and 25(3) of the Act and rejected the application.

A hearing was held in connection with this case.

3. Retail, Wholesale and Department Store Union, Local 597 and Answer Telephone Service Limited, St. John's.

Decision:

The Board was not satisfied that Answer Telephone Service Limited, St. John's, violated the Act and rejected the application.

A hearing was held in connection with this case.

4. International Association of Machinists and Aerospace Workers, Westside Lodge 544 and Beothuck Ford Sales Limited, Grand Falls.

Decision:

The Board was satisfied that Beothuck Ford Sales Limited, Grand Falls had not violated Section 25(1)(a) and 25(2)(b) of the Act; and rejected the application.

5. Retail, Wholesale and Department Store Union, Local 597 and Tooton's Limited, St. John's.

Decision:

The Board was satisfied that Tooton's Limited, St. John's had not violated Section 23(1) of the Act; and rejected the application.

A hearing was held in connection with this case.

6. Newfoundland Association of Public Employees and The Town of Stephenville.

Decision:

The Board was satisfied that The Town of Stephenville did not violate Section 25(1)(a) of the Act; and rejected the application.

7. Charles Fost and Eastern Catering Limited, St. John's.

Decision:

The Board was satisfied that Eastern Catering Limited, St. John's had not violated Section 25(2) of the Act and rejected the application.

A hearing was held in connection with this case.

Reasons for decision were issued and are attached as Appendix 5 of Schedule B.

8. Lindo Smith and Clarenville Area Consumers Co-operative Society Limited.

Decision:

The Board was satisfied that Clarenville Area Consumers Co-operative Society Limited did not violate Section 24 of the Act and rejected the application.

9. Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers, Local 354 and Breweries' Industrial Relations Association Limited.

The application was withdrawn.

10. Canadian Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers, Local 351 and Breweries' Industrial Relations Association Limited.

The application was withdrawn.

11. Newfoundland Brewery Employees' Union affiliated to C.N.T. . and Breweries' Industrial Relations Association Limited on behalf of Molson Newfoundland Brewery Limited.

The application was withdrawn.

12. Newfoundland Association of Public Employees and The Town Council of the Town of St. Lawrence.

Decision:

The Board was satisfied that The Town Council of the Town of St. Lawrence did not violate Section 45 of the Act and rejected the application.

Reasons for decision were issued in this case and are attached as Appendix 6 of Schedule B.

13. Communications Workers of Canada, Local 410 and Newfoundland Telephone Company Limited, St. John's.

The Application was withdrawn.

14. Dermot Cain (Eugene Newman) and Construction General Labourer's Rock and Tunnel Workers, Local 1208.

The application was withdrawn.

15. Dermot Cain (Wes Hibbs), and Construction General Labourers' Rock and Tunnel Workers, Local 1208.

The application was withdrawn.

16. Kenneth Critch, Douglas Didham, Gail Murray, James Bonia, Michael Meaney, Douglas Molloy, Karen Jefford, Thomas McCarthy, Patrick Tobin, David Drohan, Gerald Malone and Jones Construction Limited, Pasadena.

Decision:

The Board was satisfied that Jones Construction Limited, Pasadena, violated Section 24(1) of the Act when Kenneth Critch, Douglas Didham, Gail Murray, James Bonia, Michael Meaney, Douglas Molloy, Karen Jefford, Thomas McCarthy, Patrick Tobin, David Drohan, and Gerald Malone were dismissed; and ordered, pursuant to Section 119 of The Labour Relations Act, 1977 that Jones Construction Limited, Pasadena;

(1) Reinstate Kenneth Critch, Douglas Didham, Gail Murray, James Bonia, Michael Meaney, Douglas Molloy, Karen Jefford, Thomas McCarthy, Patrick Tobin, David Drohan, and Gerald Malone in their employment with the respondent in the positions held prior to dismissal.

(2) Compensate the employees for wares and other employees benefits lost from the date of dismissal and ending upon the date of reinstatement less any income received during the period from dismissal to reinstatement.

(3) The Board will retain jurisdiction on the matters of compensation in the event that the parties are unable to agree on the amount.

A hearing was held in connection with this case.

Reasons for decision were issued and are attached as Appendix 7 of Schedule B.

17. Newfoundland Telephone Company Limited, St. John's and Communications Workers of Canada, Local 410.

The application was withdrawn.

18. Dermot Cain (Denis Boyles and Lloyd Boyles) and Construction General Labourers' Rock and Tunnel Workers, Local 1208.

The application was withdrawn.

19. Barbara Mercer and Sir Thomas Roddick Hospital, Stephenville and Bay St. George Senior Citizen's Home.

Decision:

The Board decided that it did not have any jurisdiction under The Labour Relations Act, 1977 to deal with the application and rejected the application.

20. Breweries' Industrial Relations Association and Nfld. Brewery Workers Employees Union.

The matter was lapsed.

21. Newfoundland Fishermen, Food and Allied Workers, Local 1252 and Quinlan Brothers Limited, Bay de Verde.

The matter was lapsed.

22. Newfoundland Fishermen, Food and Allied Workers, Local 1252 and Port Enterprises Ltd. Southern Harbour.

The matter was lapsed.

23. United Steelworkers of America and Real Ste-Marie Construction Limited, Labrador City.

The matter was lapsed.

Complaints Pending Before the Board

1. United Steelworkers of America (Stephen Roberts) and H. J. O'Connell Construction Limited, Labrador City.

2. Newfoundland Fishermen, Food and Allied Workers, Local 1252 and Cape St. Mary's Fisheries Ltd.

3. Canadian Union of Public Employees, Local 2099 and The Town of Mount Pearl.

4. Canadian Union of United Brewery, Flour, Cereal, Soft Drinks and Distillery Workers, Local 351 and E & H Enterprises Limited.

5. Canadian Union of United Brewery, Flour, Cereal, Soft Drinks and Distillery Workers, Local 351 and Kevin Williams Distributors Limited.

6. Canadian Union of United Brewery, Flour, Cereal, Soft Drinks and Distillery Workers, Local 351 and Pat Hearn Distributors Limited.

7. Candian Union of United Brewery, Flour, Cereal, Soft Drinks and Distillery Workers, Local 351 and Bob Morrissey Limited.

8. Canadian Union of United Brewery, Flour, Cereal, Soft Drinks and Distillery Workers, Local 351 and Herb White Distributors Limited.

9. Canadian Union of United Brewery, Flour, Cereal, Soft Drinks and Distillery Workers, Local 351 and Eugene McGrath Distributors Limited.

10. Canadian Union of United Brewery,Flour, Cereal, Soft Drinks and Distillery Workers, Local 351 and K & P Enterprises Limited.

11. Newfoundland Association of Public Employees and Town of Paradise.

Applications under Section 126 - Complaint Against a Bargaining Agent for Failure to act in Good Faith in Handling a Greivance

1. Angie Coughlan and International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada, Local 898-B.

Decision:

The Board was satisfied that International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada Local 898-B did not fail to act in good faith in the handling of a grievance Angie Coughlan had against Famous Players Limited; and rejected the application.

2. Alice George and Canadian Union of Public Employees, Local 1271.

Decision:

The Board was satisfied that Canadian Union of Public Employees, Local 1271 did not fail to act in good faith in the handling of a grievance Alice George had against the Salvation Army Grace General Hospital.

A hearing was held in connection with this case.

The application was rejected.

3. Robert Noftall and Canadian Union of Public Employees.

Decision:

The Board was satisfied that Canadian Union of Public Employees did not fail to act in good faith in the handling of a grievance Robert Noftall had against Memorial University of Newfoundland; and rejected the application.

4. Patricia Gill and Canadian Union of Public Employees, Local 706.

Decision:

The Board was satisfied that Canadian Union of Public Employees, Local 706 did not fail to act in good faith in the handling of a grievance Patricia Gill had against the City of Corner Brook and rejected the application.

5. Robert Jackman and Canadian Union of Communication Workers.

The matter was lapsed.

6. Ronald Hughes and Jeff Reid and Construction General Labourers' Rock and Tunnel Workers, Local 1208.

The matter is pending before the Board.

Applications for Termination of Bargaining Rights

1. Jacob Davis et al and Construction General Labourers' Rock and Tunnel Workers Local 1208 and Pennecon Construction, Makinsons.

The matter was lapsed.

Appendix 1 Schedule "B"

IN THE MATTER OF
The Labour Relations Act, 1977

- and -

Communications Workers of Canada, Local 410, ("Local 410")

- and -

Newfoundland Telephone Company Limited, St. John's ("the employer"),

- and -

International Brotherhood of Electrical Workers, Local 1615, ("Local 1615"),

BEFORE: Gordon G. Easton, Q.C., Chairman; W. Alcock and G. Gillingham, Members.

REASONS FOR DECISION:

This is an application for certification received from Communications Workers of Canada, Local 410, for a unit of employees of Newfoundland Telephone Company Limited, St. John's, that is presently represented through voluntary recognition by International Brotherhood of Electrical Workers, Local 1615.

The Board received two (2) applications for certification from Local 410, one (1) covering the Craft employees and the other covering the Telephone Operator Services. All parties agreed prior to the start of the hearing on the applications that the evidence given in connection with the Craft unit would also apply to the Operator Services Unit. These reasons will therefore apply to both applications.

The Board held a hearing on the application and on 26 May, 1983, ordered a representation vote. The intervenor has now requested reasons for that decision.

Counsel for Local 1615 has raised one (1) major objection to the application for certification which concerns the status of Local 410. Local 1615 contends that Local 410 is not a trade union within the meaning of The Labour Relations Act.

At the outset of the hearing, Counsel for Local 1615 raised a preliminary point objecting to the Board assuming jurisdiction to hear the application because Local 410 was not a trade union since it did not file a copy of its constitution with the Minister pursuant to Section 138 of the Act. The Board reserved its decision on this point and proceeded to hear evidence and argument on the status of Local 410.

Section 138 of the Act provides:

> "A trade union shall file with the Minister
> (a) a copy, duly certified by its proper officers to be true and correct, of the constitution, rules and by-laws of the trade union and any branch or local thereof within the province, and

Local 1615 is contending that Section 138 requires a trade union to file a copy of its constitution and by-laws with the Minister and if it does not comply, it is not a trade union within the meaning of the Act. This interpretation appears to suggest that a default under Section 138 imposes a penalty, which will deprive a union of all of its rights under the Act including the right to apply for certification. This interpretation of Section 138 does not seem reasonable. The Section no doubt, places an obligation on a trade union to file various documents with the Minister. It does not necessarily follow that if it does not comply with the Act, it loses its status as a trade union. There are penalty provisions in the Act which can be used for cases of non-compliance. Except for amendments to a constitution, etc., there are no time limits for compliance with the Section. The Board can see no connection between a union's obligation under Section 138 and its right to apply for certification under Section 36 of the Act if it meets the definition of a trade union under 2(1)(x). The Board has the jurisdiction to determine under Section 17(k)(1v) of the Act whether for the purpose of the Act, an organization is a trade union. If the Board determined that an organization was not a trade union, there might not be any obligation on that organization to file its constitution with the Minister. The Board is satisfied that

a default under Section 138 has no effect on the right of a union to apply for certification.

After hearing the interested parties on the preliminary point, the Board proceeded to hear the parties on the status of Local 410. Local 1615 contends that Local 410 is not a trade union within the meaning of Section 2(1)(x) of the Act and was not when it organized the employees of the employer.

Evidence before the Board reveals that the Communications Workers of Canada, the parent organization, commenced to organize the employees of the employer in early November, 1982. It appears that most of the employees signed membership cards that made no reference to a particular local number although the cards did indicate that employees would be bound by the constitution of the union and/or the Local to which they were assigned. In early December, 1982, a number of employees applied for a charter and on December 18, 1982, a charter was granted to Local 410. On 29 January, 1983 a general meeting was held at which time a constitution and by-laws were adopted. At that meeting the union assigned all employees who had signed membership cards, under the parent organization, to Local 410. Local 410 made application for certification on 3 February, 1983.

There appears to be no dispute on the facts as outlined here. Local 1615, however, disagrees that some of the decisions taken at the 29 January, 1983, meeting by Local 410 are decisions that can be made under its Constitution. Local 1615 argues that there is no authority under the constitution of the Communications Workers of Canada to assign members from the parent organization to a Local. Local 1615 argues that Local 410 had no members in good standing when the application for certification was made. Local 1615 further argues that there is really no local autonomy vested in Local 410 since the constitution specifically provides that the Local cannot take strike action without the approval of the National Union.

Local 410 argues that it has members in good standing pursuant to the Board Rules of Procedure since only those who had signed a card and had paid the appropriate fee were accepted into membership. It argues further that Local 410 is a trade union within the meaning of the Act since it has elected local officers, adopted by-laws and has one of its purposes to bargain on behalf of employees.

There are two (2) questions to be answered in this situation. (1) Was Local 410 a trade union within the meaning of the Act when the application for certification was made and (2) Did Local 410 have, as members in good standing, a majority of the employees in the proposed bargaining units at the date of the application?

What constitutes a trade union? Section 2(1)(x) of the Act defines a trade union as:

> "... a local or provincial organization or association of employees, or a local or provincial branch of a national or international organization or association of employees within the province that has as one of its purposes the regulation in the province of relations between employers and employees through collective bargaining but does not include an organization or association of employees or a council of trade unions that is dominated or influenced by an employer; and

In this case what steps did the employees take to establish Local 410? From the evidence a number of employees applied for a charter from the Communications Workers of Canada in early November. In early December a charter was granted to the employees. By-Laws were drafted and on 29 January, 1983, a general meeting was held. Although this meeting was not attended by a majority of employees, there is no evidence to suggest that the organizers of the union deliberately tried to restrict access to the meeting. For reasons best known to themselves they decided to advertise the meeting by word of mouth only. At this meeting an election of officers was held, by-laws were adopted, the constitution was adopted and other

matters were discussed including the accepting into membership of employees who had signed membership cards in Communications Workers of Canada at large. More will be said about this process later.

From the evidence, it appears that all steps necessary were taken by Local 410, to properly establish themselves as a trade union. Local 410 has a set of working rules, local officers, and is situated in the province. Local 1615 argues that Local 410 held little or no local autonomy since considerable control was vested in the constitution of the national union to which Local 410 is affiliated. Local 1615 specifically referred to the provision concerning strikes. However, there does not appear to be anything unusual in that situation. Local unions in most cases are controlled and restricted by the provisions of National or International constitution. The degree of this control may vary from union to union but in this case the Board is satisfied that Local 410 has met the requirements of Section 2(1)(x) of The Labour Relations Act, 1977, and at the date of application for certification was a trade union.

The second question concerns the status of employees who had signed membership cards as members at large in Communications Workers of Canada. It appears that most of the membership cards were signed before Local 410 obtained its charter in December and certainly before Local 410 was formally set up at the meeting of 29 January, 1983. At this meeting, however, all employees who had signed cards in Communications Workers of Canada were assigned to Local 410. This procedure was questioned by Local 1615 as being outside the Constitution of the union in that there is no specific provision to permit assignment of members from the Communications Workers of Canada at large to a Local. There exists only a procedure to transfer from a Local to another Local. Article 5, Section 2(a) of the National Constitution provides:

> "Membership in the Union shall be obtained and maintained through membership in a chartered Local of the Union. However, members working in locations where there is no chartered Local may join as members-at-large."

This procedure appears to give the union a procedure to organize employees in areas where there is no local. In this case the members at large were assigned to a local after it was established. There appears to be nothing wrong with this procedure.

The Board is of tne opinion that this objection is a very technical one and to eliminate any doubts about the status of the employees the Board exercised its discretion under Section 46 of the Act and ordered a representation vote. This vote will establish whether Local 410, Local 1615, or neither has the support of the employees.

For the above reasons, the Board ordered a representation vote on 26 May, 1983.

ISSUED at St. John's this 29th day of June, 1983.

For the Board,

GORDON G. EASTON, Q.C.
Chairman

Appendix 2 - Schedule "B"

IN THE MATTER OF

The Labour Relations Act, 1977

- and -

Newfoundland Association of Public Employees ("the union"),

- and -

Canadian Red Cross Blood Transfusion Services, St. John's ("the employer"),

- and -

Agnes Gallant.

BEFORE: Gordon G. Easton, Q.C., Chairman; W. Alcock and G. Gillingham, Members.

REASONS FOR DECISION:

This is an application made by Newfoundland Association of Public Employees to amend a certification order issued by the Board on 7 June, 1983, to include the classification of Lab Helper/Clinic Assistant employed by the employer at Corner Brook.

The Board considered this case and on 12 January, 1983, issued an order to amend the certification order issued by the Board on 12 October, 1976, which order was composed of Laboratory Technologists and Laboratory Helpers.

The employer disagreed with the decision and applied to the Supreme Court for Writ of Certiorari to quash the Board order. Before the court hearing commenced, solicitors for the parties and the Board reached an argreement that the matter should be referred back to the Board for a hearing.

The Board heard the matter on 26 May, 1983, and has decided that the classification of Lab Helper/Clinic Assistant is appropriate to be included in the certification order issued by the Board on 12 October, 1976, but also decided to rescind its order of 12 January, 1983, Reasons for these decisions follow:

There are two (2) basic considerations in this case. (1) It is appropriate for the Board to amend an existing order to include a classification situated in a area geographically removed from the original unit? and (2) Should the Board take into consideration the wishes of the employee?

The Board by its order of 12 October, 1976, determined that an appropriate unit consisted of all full time and regular part time Laboratory Technologists and Laboratory Helpers save and except Charge Technologist and those above the rank. At the time of this order the employer apparently only operated the Clinic in St. John's as a permanent Clinic and operated mobile clinics to various points around the province.

The employer now operates a permanent Clinic out of space provided by Western Memorial Hospital in Corner Brook. This Clinic works three (3) days a week and employs a small staff who work the Clinic on a permanent part time basis. One of the employees working at the Clinic has been classed as Lab Helper/Clinic Assistant. From the evidence before the Board, it appears that the employees in this class spends approximately 60 percent of her time in Lab related work; 30 percent at Clinic Assistant work; and 10 percent or less in Driver related work. Evidence also reveals that this employee often perform Lab related work on the blood, while the Clinic is in actual operation after she has worked with the nurse in setting up the clinic and assisting the donors. The employee is paid on the same scale as Lab Helper in St. John's. The employee performs basically the same work as the St. John's Lab Helper except there could be less time spent on clean up of testing equipment at Corner Brook.

The employer argues that it is not appropriate to include this classification in any unit except a Corner Brook unit. The employer argues that there should be compelling reasons to establish multi-location bargaining units.

The employer's arguments concerning the amendment of the Clinic Assistant/Driver bargaining unit are not now relevant to this case since the Board has decided that the Lab Helper/Clinic Assistant appropriately belongs in the Lab unit and further to rescind its order of 12 January, 1983.

The union argues that the employee in Corner Brook is performing work similar to employees in the St. John's Clinic except that there is some overlap. The union also argues that there is limited management in Corner Brook except for nurses who run the Clinic. The union further argues that the Board should not base its decision solely on the feelings of the employee at that particular period of time.

The Intervenor argues whether the bargaining unit would be practical or feasible if it is amended to include the Corner Brook classification, and further argues that the fact that the employee has no interest in the union is one to be considered.

The Board has considered the arguments of the employer and generally agrees that unions not be permitted to sweep in employees in separate areas through an amendment to a certification order. The Board has a practice of issuing separate certification orders for separate locations and there are very few exceptions to this practice. There are, however, some situations when the Board has varied this policy. In situations where management control and direction is centralized with major decisions made from head office, the Board has refused to issue a separate certification order. The Board is of the opinion that the present situation is one where the Board will vary its policy and include employees in an existing unit if it is appropriate.

Evidence before the Board reveals that the Corner Brook Clinic is closely tied to the St. John's operation. All of the testing of blood is done at St. John's; policy direction eminates from St. John's employees; the duties of the employee are similar to duties of St. John's employees; the employee is paid on the same scale as St. John's employees and nas basically the same benefits.

In the opinion of the Board there is little doubt that the Lab Helper/Clinic Assistant has a community of interest in every respect except for the geographical separation. The only other consideration for the Board is the position of the employee.

This Board, as does Board generally, has to consider the wishes of employees. The whole system of representation by trade unions is based on support for the union. There are, however, exceptions to this fundamental position.

The employer relied on Teleglobe Canada (1979) 3 Can LRBR. In that case the Canada Labour Relations Board distinguished between applications to add employees to a unit where such addition would be consistent with the intended scope of the original certificate and those which would represent a change in the essential or fundamental nature of the original unit.

In the present case, the employer argues that the application by the union is one which represents a fundamental change in the unit. This argument may have some merit if the Board were deciding to amend the Clinic Assistant/Driver unit. Although, even in that case, there is some questions if there would be a fundamental change in the unit. In this case, however, the Board, in deciding it is appropriate to include the Corner Brook classification in the Laboratory bargaining unit, is of the opinion that there is no inconsistency with the original bargaining unit and consequently, agrees with the position of the Canada Board that proof of membership support is unnecessary. In this case the classification to be added to the unit is practically the same as those already in the unit and in fact is being paid on the same salary scale.

The Board also believes that there exists a further compelling reason to find the classification to be appropriate. In Olevetti Canada Limited (1975) 1 Can LRBR, the employer relied on the position of the Board where it stated:

> "... the Board does not allow a union which has established itself in one location or among one group of employees to use that as a base for sweeping other employees into the unit through application for variance. The union must also show that it has sought and obtained membership support in that new grouping and the Board follows its normal investigation procedures on certification applications to establish that fact."

In most situations the Board agrees with that position. However, in this case, there is only one employee; considerable control is exercised from head office; and the duties are practically the same. The Board, in the Olevetti case, made reference to an exception from the above position. Where there is only one employee in a different location, it is impossible to create a separate bargaining unit. If an order cannot be varied and expanded, that employee will be denied access to collective bargaining. In this case the employee is not being denied collective bargaining since she does not want to be a part of the unit. However, the Board takes the position that the other factors that make the amendment appropriate will override the personal opinion of the employees involved.

For the above reasons the Board decided that it is appropriate to include the classification of Lab Helper/Clinic Assistant in the bargaining unit. The Board, however, will only consider such an amendment following receipt of an application. The Board will also rescind its order of 12 January, 1983. An appropriate order will be issued.

ISSUED at St. John's this 29th day of June, 1984.

For the Board,

GORDON G. EASTON, Q.C.
Chairman

Appendix 3 - Schedule "B"

IN THE MATTER OF

The Labour Relations Act, 1977

- and -

Paul Dicks, Arbitrator

- and -

International Brotherhood of Electrical Workers, Local 2330 ("the Union")

- and -

Bob's Electric Limited, Corner Brook, ("the Employer")

BEFORE: Charles White, Vice-Chairman; F. Russell and G. Gillingham, Members.

DECISION OF THE BOARD:

This is an application referred to the Labour Relations Board pursuant to Section 85 of The Labour Relations Act, 1977, requesting the Board to determine if there is a collective agreement in effect between International Brotherhood of Electrical Workers, Local 2330 and Bob's Electric Limited, Corner Brook.

The Board heard the matter on September 65th, 1983 at St. John's.

Evidence before the Board revealed that the Union signed a "letter of intent" ("the Letter") with the Employer in August of 1981. In the Letter the Company agreed to voluntarily recognize the Union as sole and exclusive bargaining agent for its employees in classifications coming within the scope of the collective agreement in force between Newfoundland Construction Labour Relations Association ("the Association") and the Union. In August of 1981 there was in effect a collective agreement between the Association and the Union convering the period August 7th, 1980 to April 30th, 1982 ("the Agreement").

The Union contended that when the Employer became a unionized employer, its collective bargaining rights accrued

to the Association, and the Employer is, therefore, bound by any subsequent collective agreement negotiated between the Union and the Association. This would, in the Union submission, remain the case for as long as the bargaining rights acquired through voluntary recognition have not been terminated.

The Employer argues that the voluntary recognition granted when the Letter was signed terminated when the jobs the Employer was involved in, at the time of signing, were finished. In the alternative, it was argued that the voluntary recognition terminated when the Agreement expired on April 30th, 1982. The Employer relied on Article 22 of the Agreement which provides that the Agreement will terminate unless notice to negotiate is given by one of the parties and that since no notice to negotiate was given by the Union to the Employer, the Agreement terminated pursuant to Article 22. Further, for the subsequent agreement (between the Association and the Union) to be in effect a new "letter of intent" would have to be signed.

There appears to be no dispute that the Employer by execution of the Letter granted voluntary recognition to the Union and for some period of time honoured the collective agreement in effect between the Union and the Association. This time period appears to be during the time the Employer was involved in construction jobs at Grand Falls and Corner Brook, during the summer of 1981.

The industrial and commercial division of the Construction Industry is covered by an accreditation order issued to the Association. Under this order the Association acquired the bargaining rights of all unionized employers in the accredited sector. By viture of the Employer granting voluntary recognition, it became a "unionized employer" within the meaning of Section 54 of The Labour Relations Act, 1977 ("the Act"), which states:

> (d) "unionized employee" means an employee on behalf of whom a trade union or council of trade unions has been certified as bargaining agent under this Act or voluntarily recognized by an employer, where the certification has not been revoked or the bargaining rights have not been terminated; and

(e) "unionized employer" means an employer of unionized employees in the geographic area or areas and sector concerned.

The Employer argues that the bargaining rights of the Union were terminated automatically when the Agreement expired on April 30th, 1982 and thus the Employer was no longer bound by any subsequent collective agreement. The Board, however, cannot agree that the voluntary recognition granted by the Employer automatically terminated. Once voluntary recognition is granted it can only be terminated through action pursuant to Section 51 of the Act. In this case there is no evidence before the Board that any action was taken by the Employer or its employees to terminate the bargaining rights of the Union.

The Employer also argues that no notice was served by the Union on the Employer pursuant to the Agreement. In the accredited sector, it appears unnecessary for a union to serve a notice on individual employers. In the sector a collective agreement is between the Association and a union on behalf of unionized employers. Any notice would be served on the Association and the various unionized employers would be made aware of the notice, presumably through the office of the Association. Even if notice were served on the Employer, in this case, it would serve little purpose since under Section 64(2) of the Act an employer and a union in the accredited sector are not permitted to individually negotiate a collective agreement.

When the Employer voluntarily agreed to be bound by the Agreement, it became involved in the collective bargaining mechanism of the industrial and commercial division of the Construction Industry. In this division all bargaining rights in respect of all unionized employers belong to the Association. The Employer is bound by the collective agreement presently in effect, that is, the agreement which is effective from October 7th, 1982 to April 30th, 1985, and will continue to be bound until the bargaining rights granted through voluntary recognition have been terminated through action prusuant to Section 51 of the Act.

For the above reasons the Board finds that Bob's Electric Limited is bound by the collective agreement in effect between Local Union 2330 of the International Brotherhood of Electrical Workers and The Newfoundland Construction Labour Relations Association which agreement is effective from October 7th, 1982 to April 30th, 1985.

The appropriate order will be issued by the Board.

Issued at St. John's this 28th day of November, A.D., 1983.

For the Board

CHARLES W. WHITE,
Vice-Chairman

Appendix 4 - Schedule "B"

IN THE MATTER OF

The Labour Relations Act, 1977

- and -

International Association of Machinists and Aerospace Workers, Westside Lodge 544 ("the union"),

- and -

Beothuck Ford Sales Limited, ("the employer"),

BEFORE: Gordon G. Easton, Q.C. Chairman; F. Russell and G. Gillingham, Members.

FOR THE EMPLOYER: Abe Schwartz

FOR THE UNION: Lowell Paulson

REASONS FOR DECISION:

This is a complaint made by International Association of Machinists and Aerospace Workers, Westside Lodge 544, pursuant to Section 118 of The Labour Relations Act, 1977, alleging that Beothuck Ford Sales Limited, Grand Falls, violated Sections 23(1)(a) and 24(1)(a) of the Act when Donald Dormody, Douglas Critch, John Farr, Kevin Brophy, and Raymond Downton were dismissed.

The Board heard evidence from the parties at a hearing on 13 September, 1982.

At the outset of the hearing, Mr. Paulson, for the union, indicated that he and Mr. Schwartz had agreed on some facts. The union, however, contended that Mr. Gilbert, owner of the Company, had given evidence at a previous hearing that he knew of the application for certification prior to May 11, 1982. The employer did not agree. A review of the tape of the certification hearing reveals that Mr. Gilbert did say that he had a meeting with the employees on May 4, 1982, and received formal notice of the application for certification on the following Monday which was May 10, 1982. However, evidence from the present hearing and a check of Board records shows that Mr. Gilbert did not receive formal notice of the application for certification until 17 May, 1982. The evidence

also reveals that Mr. Gilbert was on vacation during May and did not return to Grand Falls until the 7th of May, 1982. Obviously, it would have been impossible for him to have a meeting with the employees on May 4, 1982. From the evidence of the previous hearing and the evidence of the present hearing, the Board can only conclude that Mr. Gilbert had not received formal notice of the application before the 11th of May, 1982.

The union alleges that the employer violated Section 24(1)(a) of the Act when the five (5) employees were dismissed. Section 24(1)(a) of the Act states:

> "No employer and no person acting on behalf of an employer shall
>
> (a) refuse to employ or to continue to employ any person, or otherwise discriminate against any person in regard to employment because that person is a member of a trade union; or

Evidence given by the employer shows that one of the employees, Mr. Kevin Brophy, was employed by ESB Enterprises, a Company run by Mr. Gilbert's son.

The union's allegations that the employer violated this section of the Act are based on the premise that the employer knew of the union's application for certification and/or knew that the union was attempting to organize the employees prior to the layoff of the employees. In order for the union to establish that the employer violated Section 24(1)(a) of the Act in this case, it has to establish that the employer knew of the union's activity prior to the layoffs on 13th and 14th May, 1982. As indicated earlier in these reasons, the union tried to establish that the employer knew of the application before the layoffs. This was not borne out by the evidence at this hearing and the Board accepts the position that the employer did not have a formal notice of the application for certification before the layoffs.

Since the employer had not received formal notice of the application, did he have knowledge that the union was in the process of organizing the employees? Based on the evidence presented by the union, the answer to this question has to be no. There was absolutely no evidence presented at this hearing by the union which indicated that the employer had any knowledge of the union's attempt to organize the employer prior to 14 May, 1982. On this day, the Service Manager had a conversation with Mr. Ray Downton, one of the employees to be laid off, and Mr. Downton expressed the concern that he hoped the layoff was not because of the union. At that time the Service Manager informed Mr. Gilbert, the owner. The union presented evidence through its witnesses relating to the employer's conversations with the employees. There was a difference between the union's and the employer's witnesses on the contents of the conversation. However, it really does not matter how the Board weights the evidence as it relates to the Section 24 complaint. All of the evidence related to the employer's activities after the layoffs had occurred.

The union tried to establish through inference that the layoffs had to be because of the union since there was no indication that the employer's business was down. There was much confusion concerning dates on which meetings may have been held by the employer and what was said at the meetings. It was not clearly established how many general meetings were held by the employer with the employees. However, it was clear that a meeting was held on 30 March, 1982 attended by most of the employees of the Service Department. This was a regular meeting held by the Service Manager to update employees on the latest Bulletins from the manufacturer and to deal with other shop matters. At this meeting, the employees were informed by Mr. Gilbert that the trend in the industry was to give the mechanics an eight to eight and one-half percent raise and he indicated that his Company would be giving such a raise. At this meeting, the employer contends that the sorry state of the economy and the slumping car business was discussed with the employees. The employer suggested that productivity would have

to increase in order to absorb the increased labour cost. The union's witnesses could recall very little of the matter discussed at the meeting. In fact, there was a very noticeable loss of memory by the union witnesses as it related to this meeting and other meetings and conversations held with the employer. Upon cross examination, some of the witnesses admitted that, although they could not remember specifically what was discussed, it was possible that the employer had discussed the troubled car industry and the employer's loss of business. The Board is satisfied that the employer had discussed the downturn in business prior to the union becoming involved in organizing the employees.

The Board is satisfied that the union did not establish that the employer had knowledge of the union activity prior to the layoffs and consequently, did not violate Section 24(1)(a) of the Act.

The second part of the union's complaint was the allegation that the employer had violated Section 23(1)(a) of the Act. The union alleges that the employer met individually with a number of employees and attempted to persuade them to revoke their membership in the union. The union presented evidence that the employer met with the employees individually, and in one case visited an employee's home while he was on vacation to discuss his involvement with the union. Again there is a wide variance in the evidence of the parties as to the nature of the meetings held with employees. However, if the employer interfered, it had little or no effect since the Board issued a certification order to the union.

There is, however, a fine line between what is considered interference pursuant to Section 23(1)(a) and the employer's right to meet with his employees. In this case, the actions of the employer came very close to violating the Act.

For the above reasons, the Board rejected the complaint filed by the union.

Issued at St. John's this 9th day of February, 1983.

For the Board,

Gordon G. Easton, Q.C.
Chairman

APPENDIX 5
Schedule "B"

IN THE MATTER OF
The Labour Relations Act, 1977

- and -

Charles Fost,

- and -

Eastern Catering Limited
("the Company"),

BEFORE: Gordon G. Easton, Q.C., Chairman
F. W. Russell and J. Walsh, Members

Mr. Gerard Griffin for the Applicant
Mr. William J. English for the Respondent

REASONS FOR DECISION:

This is a complaint pursuant to Section 118 of The Labour Relations Act, 1977, filed by Charles Fost, Applicant, against Eastern Catering Limited ("the Company") alleging a breach of Section 25(2) of the Act.

The Board heard the matter of 31 May, 1983, and on 17 June, 1983.

The Applicant is alleging in the complaint that he was not recalled to work after a shutdown because of his involvement as shop steward with the union.

The Applicant commenced work in January, 1981, as a janitor with Eastern Catering Limited at the Upper Salmon Hydro Electric Site. Mr. Fost gave evidence that working conditions on the job were good for the first few months that he worked. In March, 1982 a meeting of the employees was held in the bunk house and Mr. Fost was elected shop steward. In his position as shop steward, he made representations on behalf of a number of employees who had problems on the job. Mr. Fost acted on behalf of a Mr. Croke who became ill and was admitted to hospital. Upon release the Company refused to rehire him. After conversations with Mr. Anderson, the Company President, Mr. Croke was rehired but in a lower classification. Mr. Fost also had discussions with Mr. Clements

concerning a change in shift schedules. The proposed change apparently did not sit well with the employees, and Mr. Fost went to see a Mr. Seforth, the Upper Salmon Site Manager. Apparently Mr. Seforth had discussions with Mr. Clements and the shift change was not implemented. Mr. Fost contends that Mr. Clements called the employees together and appeared to be extremely upset. At that time, Fost felt that his dealings on behalf of the employees as shop steward was getting him into trouble with the Company.

During his time as shop steward, Mr. Fost was apparently unable to get in touch with his union's representatives and in late September, 1981 or early October, 1981 he became frustrated and decided to give up his position as shop steward. The Upper Salmon job site closed on December 18, 1981 for the Christmas season and all employees were laid off presumably to be recalled when construction commenced in the new year. Mr. Fost indicates that he was told by Mr. Clements that he would be recalled when the job started up. Mr. Fost was not recalled and feels he had finally lost his job because of this involvement as shop steward.

The Company argues that it did not recall Mr. Fost back to work in January, 1982 because he was not a satisfactory employee. The Company also indicated that some pressure was being applied by the consultants on the job not to recall Mr. Fost. The Company alleges that Mr. Fost often showed up late for work; was in town without authorization when he should have been working; using the phone of the consultants instead of the pay phones provided for employees' use. The local manager, Mr. Clements, contends that Mr. Fost had been warned verbally and told that if "he didn't smarten up, he would have to go." The Company also issued a warning to employees through the chef. This warning was apparently discussed with Mr. Clements by Mr. Fost.

Mr. Fost alleges a violation of Section 25(2) of the Act, which states:

(2) No employer shall

(a) discriminate against a person in regard to employment or conditions of employment;

or

(b) suspend, discharge or impose of any financial or other penalty on a person employed by him or take any other disciplinary action against such person.

Mr. Fost alleges that he was not recalled to work in January, 1982 because of his involvement as shop steward from March to late September or early October, 1981. During that time he acted on behalf of a number of employees and on a couple of occasions he felt he had crossed swords with Mr. Clements and felt his days with the Company were numbered. As a result of his frustration with his job as shop steward and his perceived fear that the Company may dismiss him because he was somewhat of an irritant, he resigned his job as shop steward. Mr. Fost concedes that he had no problems from the time he quit his job until he was laid off on December 18, 1982.

The Board has reviewed the evidence and it is obvious that there is considerable conflict in the evidence. This, to a degree, is attributable to the length of time between the incident and the hearings. It is reasonable to assume, however, that the Company could become irritated if a shop steward constantly presented complaints to them on behalf of employees, and at one point in time, Mr. Clements admitted that he was upset that Fost had gone to Mr. Seforth complaining about the change in shift scheduling, however, even if the Board were to accept Mr. Fost's evidence, it seems unusual that the Company would keep Mr. Fost employed from early October, 1981 until December 18, 1981 since most of the incidents referred to by Mr. Fost occurred during the summer. Mr. Fost, in his complaint, also indicates that he was disgusted with the union. If this is the case, why would the Company have any fear of recalling him?

The solicitor for Mr. Fost argues that the burden of proof should rest with the employer once the complainant has established a prima facie case and he cited an Ontario Labour Relations Board case. The Board feels that there is some merit in this procedure when dealing with unfair labour practice complaints, and the solicitor for the Company also saw some merit in that position. However, our Labour Relations Act differs from the Ontario Act since the onus does not reverse when a prima facie case is made. In this case the burden rests totally with Mr. Fost to show that his dismissal was because of his involvement as a shop steward for the union. The Board is not satisfied that he has made his case.

For the above reasons the Board has rejected the complaint. The appropriate Board order will be issued.

ISSUED at St. John's this 7th day of October, 1983.

FOR THE BOARD,

GORDON G. EASTON, Q.C.
Chairman

Appendix 6 - Schedule "B"

IN THE MATTER OF

The Labour Relations Act, 1977

- and -

Newfoundland Association of Public Employees ("the union"),

- and -

The Town Council of the Town of St. Lawrence ("the employer"),

BEFORE: Gordon C. Easton, Q.C., Chairman;
W. A. Alcock and G. Gillingham, Members.

REASONS FOR DECISION:

This is a complaint received from Newfoundland Association of Public Employees pursuant to Section 118 of The Labour Relations Act, 1977, alleging a violation of Section 45 of the Act. The Board considered the complaint and by order dated 18 May, 1983, rejected it.

The union, pursuant to Section 12 of the Act, has requested reasons for that decision.

Section 45 of the Act provides:

> "when an employer has received notice in writing from the Board that a trade union has made application for certification under this Act as a bargaining agent of any of his employees, the employer shall not, thereafter,
>
> (a) without the consent of the Board, or
>
> (b) unless a collective agreement has been made that is binding on employees in the unit in respect of which the application is made, after rates of wages or any other term or condition of employment of the employees, until the application has been granted, refused, or withdrawn."

The employer admits that two employees were terminated and one employee reclassified from town policeman to truck driver after a copy of the application for certification was received. The employer argues, however, that the three employees were given approximately two weeks notice and contends that the action was taken because of budgetary restraints.

The Board considered the position of the parties as it relates to the effect of Section 45. The Board has previously considered the effect of the freeze provisions of the Act and generally takes the position that the "business as before" approach is the preferred one. When an employer receives notice of an application, it is understood that an employees' terms and conditions of employment are not to be altered without the consent of the Board. This concept, however, is not to be interpreted to strictly that an employer cannot implement changes that were known before notice of the application was received, and may well be before the actual organizing of the employees themselves.

Information before the Board indicates that the employees affected were given verbal notice approximately two weeks before the application for certification was received by the employer. There does not appear to be any dispute over this fact. The laid off employees apparently discussed the layoff with the employer after notice was received and obviously were unsuccessful in changing its minds. The Board is satisfied that the employer did not breach Section 45 when the employees were terminated.

For the above reasons the Board issued its order of 18 May, 1983.

ISSUED at St. John's this 29th day of June, 1983.

For the Board,

GORDON G. EASTON, Q.C.
Chairman

Appendix 7 - Schedule "B"

IN THE MATTER OF

The Labour Relations Act, 1977

- and -

Kenneth Critch, Douglas Didham,

Gail Murray, James Bonia, Michael Meaney, Douglas Molloy, Karen Jefford, Thomas McCarthy, Patrick Tobin, David Drohan, Gerald Malone,

- and -

Jones Construction Limited, Pasadena,

BEFORE: Gordon G. Easton, Q.C., Chairman;
F. W. Russell and J. Walsh, Members.

Randell Earle for the Applicants
R. Andrews for the Respondent.

REASONS FOR DECISION:

This is a complaint of unfair labour practice filed by the applicants pursuant to Section 118 of The Labour Relations Act, 1977, alleging a violation of Section 24(1) of the Act.

Prior to receipt of the complaints, the Board had received an application for certification from International Union of Operating Engineers, Local 904. A copy was forwarded to the respondent by certified mail and it was received by the respondent on 27 May, 1983. Following its usual investigation, the Board decided that a representation vote be conducted and notified the parties by letter dated 29 June, 1983. The officer assigned to conduct the vote made the necessary arrangements and the vote was conducted on 7 July, 1983. The result, thirteen (13) in favor of the union and twelve (12) against, was released to the parties immediately following the vote. The actions of the respondent following release of the vote resulted in the complaints of unfair labour practice.

It is perhaps trite to say that unfair labour practice cases are difficult to deal with since the disposition of the cases almost

invariably requires the Board to draw inferences from circumstantial and other evidence. The Board has to be careful to weigh the circumstances of each particular case and try to interpret the actions of the participants as outlined in the evidence before the Board, and then decide whether it is satisfied that the union has discharged the onus placed upon it under the Act. As always, here we have conflicting explanations for the behavior of the employer, inconsistent of course, with the union's claim that the employees were let go because of their union activities. In order to ascertain the truth or otherwise of the assertions of the union we must consider a number of factors. These include the credibility of the witnesses, the nature of the reasons given by the employer for his actions, the timing and manner of the discharge, the likelihood of the employer's actions for the reasons given, and finally, the fact that the true reasons for the discharge often lie exclusively within the knowledge or means of knowledge of the employer. (See National Automatic Vending Company Limited), 2 CLLC 1960 - 1964, 16, 278.

Counsel for the employer argued here that the onus upon the union had not been discharged, and that it had not proved that there had been a breach of Section 24 (1) of The Labour Relations Act. Under our Act there is no "reverse onus" and consequently, the burden of proof lies with the union. However, the burden of proof, in our opinion, is not as onerous in unfair labour practice charges as it is in most civil or quasi criminal proceedings. The reason for this is because the employer has the knowledge of all the factors leading up to his final decision to terminate the employment of the complainants. It is almost impossible for the complainants to make out any sort of case, if the strict proof of each and every allegation of wrong doing on the part of the employer had to be shown beyond a reasonable doubt. The Board feels that this approach is not the appropriate one. It is obvious that the union very seldom will have irrefutable proof of the alleged wrong doing. At best, it will usually suspect that the employer's action are initiated by an anti union animus, but this conclusion is normally drawn inferentially from the actions of the employer viewed in the context of timing, union activity,

the overt actions of the employer's representatives and the sequence of events subsequent to the discharges. Incidentally, throughout this decision, reference will be made to the termination of the complainants as being discharges rather than layoffs since it is in our opinion, obvious that the employer here intended to serve the employer/employee relationship.

What then is the proper approach for this Board in considering the operation of the burden of proof and what proof is required to satisfy the onus placed upon the complainants? The Ontario Labour Relations Board in the National Automatic Vending Company Limited case made the observation that "the fact that the primary onus for establishing the merits of the complaint lies on the complainant does not of course mean that the complainant is bound to demonstrate by direct evidence each and every fact or conclusion of fact upon which the issue in dispute depends. Reasonable and necessary inferences may and must be drawn from all the evidence adduced and that which is clearly inferable from the evidence is as much proved as if it had been established by direct evidence." (Page 1163). It should be noted that the National Automatic decision (supra) was handed down in 1963 when the Ontario act did not contain the "reverse onus" provision. In other words, the Ontario act at that time read substantially the same as ours as far as the onus of proof is concerned.

In Taylor on Evidence, twelfth edition, volume one, pages 262-263, it is stated that "When the facts lie peculiarly within the knowledge of one of the parties very slight evidence may be sufficient to discharge the burden of proof resting on the other party." In Wachnow V. Myers (1931) W.W.R. 17 (Man. C.A.) Fullerton J.A. pages 17-18 quoted with approval Phipson on Evidence page 27 where it is said that "In the absence of statutory provisions the better opinion now seems to be that general some prima facie evidence must be given by the complainant in order to case a burden upon his adversary. The difficulty of proving a fact peculiarly known to an opponent may, it has been said, affect the quantum of evidence demanded in the final instance but does not change the rule of law." Fullerton, J.A. went on to say in Wachnow V. Myers

(supra) "I think this rule applicable to the present case and that very slight evidence as to the defendant doing business was sufficient to shift the burden to the defendant."

In the instant case the union established that the complainants were all employees of the respondent and that their employment had commenced during the spring of 1983. The union also established that knowledge of the union activity was known to the respondent. The respondent received notice of the application for certification somewhere around the end of May. Also, of course, apart from the activity on the site it is clearly established that Chaulk's Limited wrote to the respondent on June 8th, 1983, stating that "It (had) come to my attention that the operators you have placed on my machines may join a union in the near future." A similar letter was sent by Cross Construction Limited on June 10th, 1983, referring to a recent conversation and informing the respondent that "I will not allow any union operators to operate any of my equipment". And, of course, everyone knew of the representation vote and the result of it on July 7th, 1983.

In addition, there is the direct evidence of Michael Meaney, one of the complainants who testified, that on Monday morning July 11th, 1983, when they all returned to the work site "Mr. Skanes came out of the office and we asked why we were laid off. Mr. Skanes stated that we were laid off because "there was no union men going on the equipment." Despite intensive questioning by counsel for the respondent, the witness stuck to his story that these were the exact words of Mr. Skanes. It should be noted that Mr. Skanes was not called as a witness to refute these allegations. Also we cannot accept the suggestion by Mr. Hobbs, the office manager, that Skanes was not really an employee of the respondent, but merely acted in a consultative capacity. The records show his name on the payroll and he was the person responsible for telephoning all of the complainants telling them they were being laid off.

Kevin Jones himself, the owner of Jones Construction Limited admitted that "(he) went around and told all employees what would happen if the union came in right, and as for Gail Murray (one of the flagpersons) I went and told her that I knew she was in the union." Later in his evidence Jones testified that he knew one or two men who didn't support the union. In c ss examination one exchange went like this:

> Counsel for the union:
>
> Q. "You knew the people who didn't support the union didn't you?"
>
> A. "Not all of them."
>
> Q. "You knew who most of them were?"
>
> A. "The ones who came in with me. I don't think either one of them support the union."
>
> Q. "And none of them got laid off did they?" (This question repeated.)
>
> A. "No, they have been working with me for years."

Later in his evidence, Jones stated at one point when discussing the restructuring of the project on Monday, July 11th, that "All that had to be worked out was that there was no union fellows on the equipment." He went on to say that this was to satisfy Borden Beattey (Chaulk's Limited) and Cross who had earlier written him threatening to remove all of their equipment. Jones also admitted going to one of the equipment operators Doug Molloy and saying to him that "I don't care if you vote for the union. If the union comes in on it you are going to lose your job." Union counsel asked him also the question "If you won the vote there would be nobody laid off that afternoon would there?" The response was "They would be working the same way they were working." It should be noted against this, that upon redirect examination Mr. Jones stated that by this statement, he meant only to refer to the equipment operators. He claimed that the flagpersons and spotters and foremen would have been let go.

All in all, the Board feels the union adduced sufficient evidence to cast an onus on the respondent to give an explanation for the actions it took in discharging the complainants. If it can satisfy the Board that these actions were not motivated in whole or in part by any anti union animus there complaints must fail. If it cannot, they must succeed.

The company offers two explanations for its actions in letting the complainants go. Insofar as the equipment operators are concerned, the company relies heavily on the actions taken by two of its lessors of equipment. From the evidence, it is obvious that Cross Construction Limited and Chaulk's Limited became aware of the union's efforts to organize the employees of Jones Construction Limited (the respondent company) sometime in early June of 1983. This is evidenced by the two letters referred to earlier. It is also clear from the letter of June 10th, 1983, from Cross Construction Limited that Kevin Jones or someone representing his company had conversations about the union's efforts as the letter refers to "our recent conversation." The attitude adopted by Kevin Jones at the hearing of this matter suggests that in his opinion, he had no choice except to let the equipment operators go, otherwise, the rented equipment would be taken from the job.

Insofar as the other employees were concerned, it is the company's contention that these employees were let go because of a change in the nature of the operations of the company. The respondent decided to close down one quarry pit leaving only one in operation, and also by doing more "off road work" thus obviating the need for as many flagpersons. The Company argues of course, that these actions were not motivated by union activity or affiliation, but were taken for sound business reasons.

Let us first examine the company's argument relative to the laying off or dismissal of the equipment operators. It claims it had no choice. It was given an ultimatum by Chaulk's Limited and by Cross Construction Limited. On the eventful day of July 7th, 1983, Don Cross and Borden Beatty of Chaulk's Limited were meeting with Kevin Jones of the respondent company awaiting the results of the

representation vote. All except Beatty bet that the union would not win the vote. When the results were known Beatty had won the bet. According to Kevin Jones, Beatty then told him to park his equipment. Some negotiations apparently ensued and the operations closed down at 5:30 p.m. that day which was earlier than usual. It appears that the decision to lay off the equipment operators was also made on Friday. It seems however, that some equipment operators who had come from the west coast of the province were kept on. The employees who were laid off or discharged were informed of this by telephone by Mr. Skanes at various times over the weekend.

Kevin Jones claims that he had no choice except to lay off the equipment operators because Cross and Chaulk would not allow unionized men on their equipment. This may very well have been the threat contained in the letters of June 8th and 10th, but it is also clear from the evidence that some if not all "union men" were approached by Cross and Broden Beatty to see if they would operate the equipment. It is clear that the fear that Beatty and Cross had was not of "union men" per se, but the fear of union organization. But obviously, nothing magical occurs affecting an employee's competency once he had become a member of the bargaining unit. In any event, Jones Construction Limited was only renting the machines so that there would be no additional financial obligation on either Cross or Chaulk's companies should the employees be certified. Any collective bargaining would go on between Jones Construction Limited and the union and would not affect the lessors of the equipment.

From the evidence it appears that after Beatty and Cross delivered their ultimatum to Jones on Friday, July 7th, no really determine efforts were made to try and find other equipment with which to continue the project. Hobbs, the office manager, was asked by union counsel if efforts were made to get alternate equipment and he replies that "I don't think it would be necessary when all the equipment was on the job that was needed. It was just a matter of making a new deal about the owners." Also, of course, there was no attempt made by the respondent company to see if Chaulk and Cross were bluffing or whether they would carry out their threat.

The equipment operators were laid off over the weekend and the job started up again the following week with new operators. Also, The Board considers it significant that the respondent company apparently made no effort to ascertain whether or not Chaulk and Cross had any legal right to carry out the threat of pulling out their equipment because of the unionization of the respondent's employees. Granted, there were amazingly enough, no written contracts covering any of the rented equipment even though the respondent company had bid and had been successful in a one million nine hundred and ninety thousand dollar project. Once can be forgiven for wondering why the respondent company would not have responded more vigorously to the threat, especially when one considers the discriminatory nature of the letters of June 8th and 10th, and the blatant assertions of the lessor companies, that no union men would operate their equipment. After all, it is a fundamental freedom enshrined in the Canadian Charter of Rights and Freedoms that everyone has freedom of association. Consequently, it appears to this Board that basically, Chaulk's Limited and Cross Construction Limited were requiring the respondent company to assist them in an illegal scheme not countenanced by the Canadian Charter. It is doubtful that these companies would have any legal right to cancel these contracts, especially on the grounds clearly and explicitly spelled out by-them. The respondent company chose to capitulate and apart from discussions between the various companies to which no one else was privy, no action was taken to prevent the two companies from carrying out their threat.

We further view with some alarm the possible long term ramifications of these actions. The lawful right of every employee to be a member of a trade union could be effectively thwarted if all subcontractors and suppliers insisted that the main contractor not employ union members. The possibilities for collusion especially where there are no written contracts are endless. In this particular case, the corporate dealings were intertwined both because of past business associations, and financial obligations owing by one to the other. In taking an overview of the various corporate entities it is hard to get

the impression that everything was "at arms length."

Let us then examine the actions of the company relative to the other affected employees. According to the evidence, it appears that at least prior to July 7th, 1983, there were two quarries in operation on the project. The company apparently made a decision to close down one of these pits. Also, it appears that representatives of the provincial government had contacted Jones Construction Limited relative to its use of flagpersons. It should be noted that fifty percent of the flagpersons' wages are paid by the provincial government. On July 1st, 1983, Robert Hobbs, the office manager of the company, had written to George Petten (government official) stating that "(this memo) was with reference to your request to reduce the number of flagpersons by restricting our operations. We have reached a decision. As of Monday, July 11th, 1983, we will be making change where ever possible to reduce the cost of flagpersons."

Evidence showed that all of the flagpersons together with the grade foreman, grade helper and spotter were laid off with the others over the weekend following the July 7th, 1983, vote. These were Jacqueline Churchill, Charles Parsons, Sandra Frew, Gail Murray, Gerald Malone, Stephen Best, Karen Jefford, and Douglas Didham. When the difficulties relative to the equipment and other difficulties were ironed out, the company rehired some flagpersons. The four rehired were Jacqueline Churchill, Charles Parsons, Sandra Frew, and Stephen Best. The four who were rehired were all students on summer jobs. Neither Churchill, Parsons nor Frew had signed union cards. Stephen Best, had. However, Best's father had written a letter to this Board ostensibly on behalf of his son alleging among other things that he had been threatened and coerced into joining the union. The company's explanation for rehiring Best was that he just happened to come by when it was looking for someone to act as flagperson. With respect to the persons laid off due to the closure of one pit and the alteration of its work methods, the company claims that the layoff was done on the basis of qualifications and ability, and that union affiliation played no part in the

decision. Unfortunately, on this point the evidence was sketchy and confusing, and it was almost impossible for the Board to assess the relative competency of the various individuals performing the different functions.

In his evidence before the Board, Robert Hobbs admitted that there were now five "new faces" on the job. In cross examination he admitted that of the people who had made complaints to the Labour Relations Board none of them had been given offers of reemployment. In his evidence Kevin Jones stated that the reason Karen Jefford was not rehired was because she was a student and there was no way she could get the ten weeks necessary to qualify for U.I.C. benefits. However, the evidence clearly showed that the four persons rehired as flagpersons who were not union members were all students on summer jobs. In this evidence, Kevin Jones stated that he did offer Gail Murray her job back after she was let go. She admits this and says that she did not on that Monday (July 11th) indicate whether she would take the job or not. The next morning she telephoned him to accept the job and she claims that he then told her that there was no job. Jones claimed in his evidence that the reason he told her on Tuesday, July 12th, that there was no job was because "The engineer said if I were you I wouldn't hire her back". According to Gail Murray's evidence she had been approached by Kevin Jones prior to the vote and as she says "accused" of joining a union. Jones also said to her on another occasion prior to July 7th that if she and others joined the union all flagpersons would be laid off and that all the trucks would be working off the road. This use of off-the-road trucks would drastically reduce the need for the same number of flagpersons.

One of the other employees who was a flagperson, but later became a spotter, told the hearing that on the day before the vote he was picked up by Mr. Skanes who asked him if he had signed a union card. He lied to him and said no. Skanes then told him that if he voted the right way the company would make him a grade foreman in a couple of weeks. He interpreted the "right way" as being "non union." Again, we must note that Mr. Skanes was not called as a witness to either confirm or deny this conversation.

All of the persons who gave evidence before the Board told of a meeting which was held at a local hotel on the day of the vote. All of the persons attending that meeting were members of the union. They met there to discuss the outcome of the vote with the business manager of the union. It appears that there were some twelve or thirteen persons there and that while they were talking two persons, believed by those present to represent management, came in and inquired whether there was a union meeting. One of them, Bill Best, was in fact a foreman with the respondent company, Allan Jones was a truck driver and a relative of Kevin Jones. They were apparently assured it was not a union meeting. They remained only for a couple of minutes and left.

The Board cannot question the right of management to conduct its own affairs and organize its work force in the most efficient manner consistent with good business practices. It is not disputed that the company was told by the government representatives to try and cut down on the cost of operations, vis-a-vis flagpersons. It is perhaps also understandable that a merging of the two quarry operations would result in some reduction of the work force. The troublesome area here however, is the undisputed fact that of all the persons who were discharged or laid off, not one of those rehired (with the exception of Best) was a member of the union. It is almost unbelievably coincidental that not one of the persons who attended the hotel meeting ever got his or her job back. The evidence is clear that Skanes knew some of the employees who had signed or would be asked to sign union cards. We need only to refer to the evidence of Douglas Didham. Also we have the evidence of Gail Murray where she testified relative to Jones' remarks to her. We also know that the job is still going on and that people were hired after the complainants were let go to do the very job that they had been performing. If union affiliation or membership was not a factor in management's decision to rehire, one is forced to wonder at the almost uncanny judgement exercised in the selection of employees, whereby all union persons were excluded. One would think that in a relatively small work force, almost by accident one or two, or even more would have been rehired. The evidence showed however, that this was not the case, and consequently the respondent company's

explanations leave much to be desired. Although, in cases of this nature, the Board is forced to rely to a large extent on inferences drawn from the evidence we feel that in this case, the union successfully placed an onus on the respondent company which it has not discharged. The Board feels that the complainants must succeed.

Accordingly, it is the finding of the Board that Jones Construction Limited violated Section 24(1) of The Labour Relations Act, 1977, when it dismissed Kenneth Critch, Douglas Didham, Gail Murray, James Bonia, Michael Meaney, Douglas Molloy, Karen Jefford, Thomas McCarthy, Patrick Tobin, David Drohan, and Gerald Malone from their employment.

The Board is cognizant of the fact that there may be some difficulty in reinstating all of the employees in their original positions since the road job is nearing completing and the availability of jobs will depend on the ability of the respondent to successfully bid new jobs. A Board officer will be assigned to assist the parties, if it becomes necessary.

The appropriate order will be issued by the Board.

Board member F. W. Russell dissents from the Board decision.

Issued at St. John's this 4th day of November, 1983.

For the Board,

GORDON G. EASTON, Q.C.
Chairman

Schedule "C"

The Fishing Industry (Collective Bargaining) Act, 1971

Statement of proceedings before the Board during the year 1983

There was no activity under this legislation during the year.

Schedule "D"

The Public Service (Collective Bargaining) Act, 1973

Statement of Proceedings before the Board during the year 1983

Applications for Certification

1.	Number of applications pending 1 January, 1983	0	
2.	Number of applications filed during the year	3	
3.	Total applications for certification		3
4.	Number of applications granted	2	
5.	Number of applications rejected	0	
6.	Number of applications withdrawn	1	
7.	Total applications dealt with by the Board		3
8.	Number of applications pending at 31 December, 1983		0

Miscellaneous Applications

1.	Applications pending 1 January, 1983	30	
2.	Applications under Section 10 - Declaration of Essential Employees	6	
3.	Applications under Section 40 - Reconsideration and Amendments of Decision	9	
4.	Total miscellaneous applications		45
5.	Total miscellaneous applications dealt with by the Board		37
6.	Total applications pending 31 December, 1983		8

Number of Representation votes conducted	0
Approximate number of employees affected by certification orders issued in 1983	22

Schedule "E"
The Public Service (Collective Bargaining) Oct., 1973
Statement of Proceedings Before the Board during 1983

Applications for Certification Granted

1. Newfoundland Association of Public Employees and Government of Newfoundland and Labrador as represented by the Treasury Board.

Bargaining Unit

A unit of employees of Government of Newfoundland and Labrador as represented by the Treasury Board comprising all employees employed by the Provincial Government to operate ferry services save and except Shore Manager and Licenced personnel.

There are ten (10) employees in the bargaining unit.

2. Newfoundland Nurses' Union and Masonic Park.

Bargaining Unit

A unit of employees of Masonic Park comprising all nurses save and except Director of Nursing.

There are twelve (12) employees in the bargaining unit.

Applications for Certification - Withdrawn

1. Association of Allied Health Professionals; Newfoundland and Labrador

- and -

Western Memorial Regional Hospital

- and -

The General Hospital Corporation

- and -

The Children's Hospital Corporation

- and -

Captain Wm. Jackman Memorial Hospital

- and -

Sir Thomas Roddick Hospital

- and -

Central Newfoundland Hospital

- and -

The Treasury Board

The application was withdrawn.

Applications Pursuant to Section 10 of the Act

1. The Salvation Army Grace General Hospital and Newfoundland Nurses' Union.

Decision

The employer had supplied to the Board a statement in writing of the employees or classes of employees in the bargaining unit who are considered by the employer to be essential employees and no objection to the statement was filed by the bargaining agent within the time prescribed by the Board's Rules of Procedure, therefore, the Board ordered that the classes of employees requested in the statement dated 28 March, 1983, be classified as essential employees for the purpose of The Public Service (Collective Bargaining) Act, 1973.

2. St. Clare's Mercy Hospital and Newfoundland Nurses' Union.

Decision

The employer had supplied to the Board a statement in writing of the employees or classes of employees in the bargaining unit who are considered by the employer to be essential employees and no objection to the statement was filed by the bargaining agent within the time prescribed by the Board's Rules of Procedure; therefore the Board ordered that the classes of employees requested in the statement dated 4 April, 1983, be classified as essential employees for the purpose of The Public Service (Collective Bargaining) Act, 1973.

3. The General Hospital Corporation, St. John's and Newfoundland Nurses' Union.

Decision

The employer had supplied to the Board a statement in writing of the employees or classes of employees in the bargaining unit who are considered by the employer to be essential employees, and no objection to the statement was filed by the bargaining agent within the time prescribed by the Board's Rules of Procedure; therefore, the Board ordered that the employees requested in the statement dated 26 May, 1983, be classified as essential employees for the purpose of The Public Service (Collective Bargaining) Act, 1973.

4. The Children's Hospital Corporation and Newfoundland Nurses' Union.

Decision

The employer had supplied to the Board a statement in writing of the employees or classes of employees in the bargaining unit who are considered by the employer to be essential employees and no objection to the statement was filed by the bargaining agent within the time prescribed by the Board's Rules of Procedure, therefore, the Board ordered that the employees requested in the statement dated 13 July, 1983 be classified as essential employees for the purpose of The Public Service (Collective Bargaining) Act, 1973.

5. Government of Newfoundland and Labrador (Treasury Board) and Newfoundland Association of Public Employees and Canadian Union of Public Employees.

The matter was lapsed.

6. A.M. Guy Memorial Hospital, Buchans and Newfoundland Nurses' Union.

The matter was lapsed.

7. The Dr. Charles A. Janeway Child Health Centre, St. John's and Newfoundland Nurses' Union.

The matter was lapsed.

8. Charles S. Curtis Memorial Hospital, St. Anthony and Canadian Union of Public Employees and Newfoundland Nurses' Union and Newfoundland Association of Public Employees.

The matter was lapsed.

9. St. Clare's Mercy Hospital, St. John's and Newfoundland Nurses' Union and Association of Allied Health Professionals and Newfoundland Association of Public Employees.

The matter was lapsed.

10. James Paton Memorial Hospital, Gander and Newfoundland Nurses' Union and Newfoundland Association of Public Employees.

The matter was lapsed.

11. Melville Hospital, Goose Bay and Newfoundland Nurses' Union and Newfoundland Association of Public Employees and Association of Allied Health Professionals.

The matter was lapsed.

12. Notre Dame Bay Memorial Hospital, Twillingate and Newfoundland Nurses' Union.

The matter lapsed.

13. Captain Wm. Jackman Memorial Hospital, Labrador City and Newfoundland Nurses' Union and Canadian Union of Public Employees and Newfoundland Association of Public Employees and Association of Allied Health Professionals.

The matter was lapsed.

14. Springdale Hosptial Corporation, Springdale and Newfoundland Nurses' Union and Newfoundland Association of Public Employees.

The matter was lapsed.

15. Carbonear General Hospital, Carbonear and Newfoundland Nurses' Union and Canadian Union of Public Employees and Newfoundland Association of Public Employees.

16. Channel Hospital, Port-aux-Basques and Newfoundland Nurses' Union and Newfoundland Association of Public Employees.

The matter was lapsed.

17. Central Newfoundland Hospital, Grand Falls and Newfoundland Association of Public Employees.

18. The General Hospital and Newfoundland Association of Public Employees and Newfoundland Nurses' Union and Association of Allied Health Professionals.

The matter was lapsed.

19. Waterford Hospital, St. John's and Newfoundland Association of Public Employees.

The matter was lapsed.

20. James Paton Memorial Hospital, Gander and Newfoundland Association of Public Employees (Lab & X-Ray).

The matter was lapsed.

21. The Salvation Army Grace General Hospital Board and Newfoundland Association of Public Employees (Lab & X-Ray)

The matter was lapsed.

22. Western Memorial Hospital and Newfoundland Association of Public Employees.

The matter was lapsed.

23. Western Memorial Hospital and Canadian Union of Public Employees.

The matter was lapsed.

24. Baie Verte Peninsula Health Centre and Newfoundland Association of Public Employees and Canadian Union of Public Employees and Newfoundland Nurses' Union.

The matter was lapsed.

25. Sir Thomas Roddick Hospital, Stephenville and Newfoundland Association of Public Employees (Lab & X-Ray).

The matter was lapsed.

26. Sir Thomas Roddick Hospital, Stephenville and Newfoundland Association of Public Employees (Support Staff).

The matter was lapsed.

27. Sir Thomas Roddick Hospital, Stephenville and Newfoundland Nurses' Union.

The matter was lapsed.

28. St. Clare's Mercy Hospital, St. John's and Newfoundland Association of Public Employees (Lab & X-Ray).

The matter was lapsed.

29. The General Hospital, St. John's and Newfoundland Association of Public Employees.

The matter was lapsed.

30. The General Hospital Corporation, St. John's and Newfoundland Nurses' Union.

The matter was lapsed.

31. The General Hospital Corporation and The Professional Association of Interns & Residents of Nfld.

The matter is pending before the Board.

32. Dr. Charles A. Janeway Child Health Centre and The Professional Association of Interns and Residents of Nfld.

The matter is pending before the Board.

Applications under Section 40

Reconsideration of Amendment

1. Newfoundland Association of Public Employees and Government of Newfoundland and Labrador as represented by Treasury Board.

Decision:

The Labour Relations Board received an application from Newfoundland Associationof Public Employees to determine the "General Service" bargaining unit. The applicant and the respondent informed the Board that agreement was reached on all classifications in the Department of Public Works and Services thus the Board ordered that the classifications listed in the attached Appendix "A" of Schedule E be included in the bargaining unit and the classifications in the attached Appendix "B" be excluded from the bargaining unit.

Newfoundland Association of Public Employees order covering employees of the Department of Finance. The Board then received a request from Newfoundland Association of Public Employees to amend the Newfoundland Association of Public Employees and since the Respondent concurred with this request the Board ordered that the classifications listed in the Appendix "C" of Schedule E be included in the bargaining unit and the classifications in the attached Appendix D of Schedule "E" be excluded from the bargaining unit.

A hearing was held in connection with this case.

Reasons for decision were issued in this case and are attached as Appendix "E" of Schedule E.

The Board received notification the applicant and the respondent had agreed on all classifications in the Department of Justice thus the Board ordered that the classifications listed in the attached Appendix "F" of Schedule "E" be included in the bargaining unit and the classifications in the attached Appendix "G" of Schedule E be excluded from the bargaining unit.

2. Howard Oates, et al. and Canadian Union of Public Employees, Local 488 and Western Memorial Hospital Corporation, Corner Brook.

Decision:

The Board received an application from Howard Oates, et al., to amend the order of the 5th of May, 1967 to exclude the "tradesmen" and following investigation and consideration of the representations of the interested parties, the Board sees no reason to amend the bargaining unit as requested and rejected the application.

3. Green Bay Health Care Centre, Springdale and Newfoundland Nurses' Union.

Decision:

The Board received a request from Green Bay Health Care Centre, Springdale, to amend the order dated 10 March, 1976 to include the employees covered by the certification order dated 7 October, 1981 and as the respondent has not objected the Board ordered that the certification order issued to Newfoundland Nurses' Union on the 10th day of March, 1976 be amended to include the employees covered by the certification order issued to Newfoundland Nurses' Union on the 7th day of October, 1981.

4. Green Bay Health Care Centre, Springdale and Newfoundland Association of Public Employees.

Decision:

The Board received a request from Green Bay Health Care Centre, Springdale, to amend its order dated 16 December, 1975, to include the employees covered by the certification order dated 28 March, 1979, and as the respondent had not objected; the Board ordered that the certification order issued to Newfoundland Association of Public Employees on the 16th day of December, 1975, be amended to include the employees covered by the certification order issued to Newfoundland Association of Public Employees, on the 28th day of March, 1979.

5. Newfoundland Association of Public Employees and Nfld. Liquor Corporation.

Decision:

The Board considered the joint request of Newfoundland Association of Public Employees and Newfoundland Liquor Corporation to interpret the Board certification order as it relates to temporary employees and after considering the investigating officer's report and the representations of the interested parties, the Board was of the opinion that the temporary employees fall in the category of full-time or regular part-time employees and are included in the certification order issued by the Board on 7 March, 1979.

6. The College of Trades and Technology, St. John's and Newfoundland Association of Public Employees.

Decision:

The Board received an application from The College of Trades and Technology to amend the "support staff" agreement to exclude the classification of Clerk Stenographer 111, Topsail Road Campus; and following investigation and consideration of the representations of the interested parties the Board saw no reason to exclude the classification from the bargaining unit; and rejected the application.

A hearing was held in connection with this case.

Reasons for decision were issued and are attached as Appendix "H" of Schedule "E".

7. International Brotherhood of Electrical Workers, Local 1615 and Newfoundland and Labrador Hydro.

Decision:

The Board received an application from International Brotherhood of Electrical Workers Local 1615 to determine if there was a collective agreement in effect between International Brotherhood of Electrical Workers, Local 1615 and Newfoundland and Labrador Hydro; and following consideration of the application the Board was of the opinion that it did not have any jurisdiction pursuant to Section 40 of the Act to consider the application; thus the application was rejected.

8. Newfoundland Association of Public Employees and The General Hospital Corporation.

   The matter is pending before the Board.

9. College of Fisheries Faculty Association and College of Fisheries Navigation Marine Engineering and Electronics, St. John's.

   The matter is pending before the Board.

10. Newfoundland Nurses' Union and Salvation Army Grace General Hospital, St. John's.

    The matter is pending before the Board.

11. Newfoundland Nurses' Union and Central Newfoundland Hospital Corporation, Grand Falls.

    The matter is pending before the Board.

12. The Association of Allied Health Professionals, Newfoundland and Labrador and The Janeway Child Health Centre, The General Hospital Corporation, St. John's and the Central Newfoundland Regional Hospital, Grand Falls.

    The matter is pending before the Board.

13. Canadian Union of Public Employees, Local 488 and Western Memorial Regional Hospital, Corner Brook.

    The matter is pending before the Board.

Appendix A - Schedule E

PUBLIC WORKS AND SERVICES - INCLUDED

1. Clerk I
2. Clerk II
3. Clerk III
4. Clerk IV
5. Clerk-Typist I
6. Clerk-Typist II
7. Clerk-Typist III
8. Clerk-Stenographer II
9. Clerk-Stenographer III
10. Payroll Clerk I
11 Payroll Clerk II
12. Switchboard Operator I
13. Switchboard Operator II
14. Duplicating Operator
15. Work Processing Operator
16. Work Processing Supervisor
17. Typesetter I
18. Typesetter II
19. Data Control Supervisor
20. Accounting Clerk I
21. Accounting Clerk II
22. Accountant I
23. Computer Operator
24. Systems Analyst
25. Communications Service Officer
26. Buyer I
27. Buyer II
28. Buyer III
29. Administrative Officer I
30. Property Appraiser II
31. Expropriations Officer II
32. Micrographic Technician I
33. Micrographic Technician II
34. Micrographic Technician III
35. Information Officer
36. Oil Delivery Inspector
37. Architect
38. Chief Architect
39. Engineer IV
40. Engineer V (Design)
41. Building Inspector
42. Electrical Inspector I
43. Mechanical Inspector
44. Painting Inspector
45. Plumbing and Heating Inspector
46. Chief Trades Inspector
47. Architectual Design Co-ordinator
48. Engineering Technician III
49. Draftsman II
50. Draftsman III
51. Domestic Worker
52. Vehicle Dispatcher
53. Senior Duplicating Operator

Appendix "B" Schedule E

PUBLIC WORKS AND SERVICES - EXCLUDED

1. Deputy Minister
2. Associate Deputy Minister (Technical Services)
3. Assistant Deputy Minister (Administration)
4. Director of Government Purchasing Agency
5. Secretary to the Deputy Minister
6. Secretary to the Assistant Deputy Minister
7. Secretary to the Associate Deputy Minister
8. Secretary to the Minister
9. Registrar I
10. Accountant III (Chief Accountant)
11. Financial Manager
12. Director of Government Information Services
13. Director of Contract and Tendering Administration
14. Management Analyst III
15. Personnel Specialist II
16. Purchasing Officer
17. Purchasing Operations Officer
18. Administrative Officer II
19. Expropriations Director
20. Director of Safety and Security
21. Regional Property Superintendent
22. Director of Property Management
23. Building Construction Superintendent
24. Director of Public Works Design
25. Director of Public Works Planning and Construction
26. Engineer V (Planning and Construction)

27. Motor Pool Supervisor
28. Printing Production Supervisor
29. Director of Printing and Micrographic Services
30. Assistant Director of Printing and Micrographic Services
31. Superintendent of Heating Plant Operations

Appendix "C" Schedule E

DEPARTMENT OF FINANCE - INCLUDED

1. Mail and Messenger Clerk I
2. Mail and Messenger Clerk II
3. Mail and Messenger Clerk III
4. Clerk I
5. Clerk II
6. Clerk III
7. Clerk IV
8. Clerk-Typist I
9. Clerk-Typist II
10. Clerk-Stenographer II
11. Data Preparation Operator
12. Tax Auditor I
13. Tax Auditor II
14. Tax Auditor III
15. Tax Auditor IV
16. Accounting Clerk I
17. Accounting Clerk II
18. Accountant I
19. Computer Operator
20. Fuel Tax Inspector I
21. Fuel Tax Inspector II
22. Fuel Tax Technical Officer
23. Assistant Supervisor of Tax Arrears Collection
24. Field Tax Collections Officer
25. Tax Prosecutor
26. Tax Information and Rulings Officer
27. Crown Corporation Financial Officer
28. Sinking Fund Officer
29. Government Investment Officer
30. Debt Analyst
31. Government Prospectus Officer
32. Assistant Supervisor - Bond Registry
33. Government Loans Administrative Officer
34. Internal Auditor I
35. Internal Auditor II
36. Microfilm Operator I
37. Management Analyst III
38. Supervisor of Tax Arrears Collection
39. Administrative Officer I (Retail Sales Tax)
40. Motor Vehicle Tax Administrator
41. Fiscal Policy Officer II
42. Supervisor - Bond Registry
43. Pensions Administrative Officer I
44. Pensions Program Training Officer
45. Central Payroll Clerk
46. Central Payroll Supervisor
47. Accountant III (Pensions)
48. Assistant Regional Tax Audit Supervisor

49. Special Financial Projects Officer
50. Pensions Auditor I
51. Pensions Auditor II
52. Tax Collections Clerk
53. Mail and Messenger Supervisor

Appendix D Schedule E

DEPARTMENT OF FINANCE - EXCLUDED

1. Minister and Secretary
2. Deputy Minister and Secretary
3. Comptroller General and Secretary
4. Assistant Deputy Minister and Secretary
5. Assistant Comptroller General and Secretary
6. Director of Adminsitration 11 and Secretary
7. Director of Tax Audit
8. Director of Government Accounts
9. Director of Internal Audit
10. Director of Debt Management
11. Director of Pensions Administration
12. Director of Pension Policy and Research
13. Director of Tax Compliance
14. Regional Tax Administrator
15. Registrar III
16. Accountant III (Chief Accountant)
17. Departmental Management Analyst
18. Government Accounts Manager (Public Accounts)
    (Exchequer)
    (Pre-Audit)
    (Central Cash)
19. Manager - Fuel, Insurance and Tobacco Tax
20. Manager - Resource Taxation
21. Manager - Tax Information and Rulings
22. Manager - Retail Sales Tax
23. Director of Federal/Provincial Fiscal Relations
24. Director of Tax Policy
25. Manager - Debt Research

26. Manager - Debt Administration
27. Manager - Cash Managements and Investments
28. Manager - Public Service Payrolls
29. Manager - Public Service Pensions Programs
30. Manager - Public Service Pensions Research
31. Pensions Financial Manager
32. Secretary to Director of Pensions Administration
33. Manager of Central Accounts
34. Internal Auditor III
35. Manager - Mail Services

Appendix E Schedule E

IN THE MATTER OF
The Public Service (Collective Bargaining) Act, 1973

- and -

Newfoundland Association of Public Employees ("the union")

- and -

Government of Newfoundland and Labrador as represented by Treasury Board ("the employer")

BEFORE: Gordon G. Easton, Q.C., Chairman
G. Gillingham and W. A. Alcock, Members.

R. Earle for the Applicant
D.Fry for the Respondent

REASONS FOR DECISION:

This is an application made by Newfoundland Association of Public Employees, ("the union") to have the Labour Relations Board determine the appropriate bargaining unit for the "General Service." In a previous decision the Board set out general criteria to be used by the Board in deciding inclusions in and exclusions from the unit. As a result of that decision, the parties met and agreed on all classifications in the Department of Finance except the Pensions Administrative Officer 1. The Board heard evidence and argument of the parties and issued an order to include the classification in the bargaining unit.

The Board heard evidence from one of the four employees working in the classification and from the Director of Pension Administration. The employees in this case process pension applications for employees of government, hospitals, crown corporation, etc. In the process of dealing with pension applications the employee is required to have access to that employee's personnel file. From this file is obtained most of the information required to place an employee on a pension such as length of service, earnings record for last five(5) years service etc.

The officer also deals with cases where employees become redundant. This could require the employee having access to another employee's personal file without that employee's knowledge.

The Employer argues that access to information required to process pension applications potentially places the employee in a conflict of situation. The information is dealt with on a regular basis and there is unlimited access to personal files of employees who make application for pension.

The Union argues that access to information required to process a pension application is not sufficient to warrant exclusion. Most of the employee's time is spent on routine applications with the remainder spent on redundancy and disability cases.

The Board has considered the evidence and argument of the parties. The evidence reveals that the Pensions Adminsitrative Officer 1 spends most of his time dealing with applications for pensions for civil servants and employees of related agencies, who are retiring from the civil service. The files to which the officers have access are those of employees who are about to sever their connection with government or its agencies. It is difficult to see how information in these files will somehow adversely affect the labour relations interest of the employer, or place the officer in a potential conflict of interest position as it relates to the files, whether or not he is a member of the union.

The other major area of concern for the employer was potential conflict for employees who dealt with cases of redundancy. The Pensions Officers deal with a number of these cases providing basic information on the redundant employees. This information is then presented to the manager. The Pensions Officer apparently has no involvement with redundancy recommendations.

It appears to the Board that the Pensions Administrative Officer 1 classification is basically involved in gathering information relevant to an employee's right to be placed on a pension. In course. of his duties, he has access to personnel files of these employees for the purpose only of gathering information related to his job. This access to files, in the opinion of the Board, is not sufficient to warrant exclusion from the bargaining unit.

The Board does not see any significant difference in this classification than the classification of payroll clerks or staff clerks, both of which have been included in the bargaining unit.

For the above reasons the Board decided to include the Pensions Administrative Officer 1 classification in the unit.

DATED at St. John's this 7th day of October, 1983.

For the Board,

Gordon G. Easton, Q.C.
Chairman

APPENDIX F Schedule E

DEPARTMENT OF JUSTICE - INCLUSIONS

1. Mail & Messenger Clerk
2. Clerk I
3. Clerk II
4. Clerk III
5. Clerk IV
6. Clerk-Typist I
7. Clerk-Typist II
8. Clerk-Typist III
9. Clerk -Stenographer II
10. Clerk-Stenographer III
11. Secretary to the Fire Commissioner
12. Legal Secretary (except special classes)
13. Court Officer I
14. Court Officer II
15. Court Reporter I
16. Court Reporter II
17. Court Clerk I
18. Court Clerk II
19. Secretary (Residential Tenancies Board)
20. Switchboard Operator I
21. Duplicating Equipment Operator
22. Data Preparation Operator
23. Accounting Clerk I
24. Accounting Clerk II
25. Accountant I
26. Assistant Director of Commercial Relations
27. Statistical Officer
28. Management Analyst I
29. Departmental Program Co-ordinator
30. Admistrative Officer I
31. Assistant Electoral Officer
32. Metric Conversion and Standards Officer
33. Landlord Tenant Relations Program - Assistant Administrator
34. Human Rights Investigator/Education Officer

35. Consumer Licensing and Enforcement Officer
36. Consumer Licensing and Enforcement Supervisor
37. Consumer Affairs Officer I
38. Consumer Affairs Officer II
39. Consumer Affairs Supervisor
40. Consumer Affairs Auditor I
41. Consumer Affairs Auditor II
42. Insurance Programme Specialist
43. Photographic Technician
44. Public Information Officer
45. Information Officer
46. Court Orderly
47. Bailiff
48. Sub-Sheriff II
49. Legal and Administrative Co-ordinator
50. Assistant Deputy Supreme Court Registrar
51. Deputy Supreme Court Registrar I
52. Correctional Programs Co-ordinator
53. Adult Probation Officer I
54. Adult Probation Officer II
55. Estates Officer I
56. Estates Officer II
57. Estates/Trusts Administrator
58. Regional Fire Inspector
59. Deputy Fire Commissioner
60. Chief Lotteries Licensing Officer
61. Lotteries Licensing Officer
62. Chief Provincial Forearms Officer
63. Jailer
64. Prison Sentence Administration Officer
65. Librarian
66. Family Court Counsellor
67. Engineer III
68. Building Inspector
69. Social Worker I
70. Social Worker II
71. Social Worker III
72. Data Control Supervisor

APPENDIX G Schecule E

DEPARTMENT OF JUSTICE - EXCLUSIONS

1. Accounting and Financial Manager
2. Director of Court Services
3. Registrar of Sales
4. Registrar I
5. Personnel Specialists I
6. Chief Electoral Officer
7. Director of Metric Conversions and Standards
8. Landlord-Tenant Relations Program Administrator
9. Human Rights Administrator
10. Superintendent of Real Estate
11. Director of Consumer Affairs
12. Sheriff
13. Co-ordinator of Legal and Administrative Services
14. Deputy Supreme Court Registrar II
15. Unified Family Court Administrator
16. Director of Adult Corrections
17. Adult Probation Supervisor
18. Chief Adult Probation Supervisor
19. Solicitor I
20. Solicitor II
21. Solicitor III
22. Solicitor IV
23. Solicitor V
24. Fire Commissioner
25. Emergency Measures Director
26. Director of Licensing
27. Deputy Minister
28. Associate Deputy Ministers
29. Assistant Deputy Ministers
30. Secretary to Deputy Ministers
31. Secretary to Assistant Deputy Ministers
32. Legal Secretaries (Civil Division)
33. Legal Secretaries (Supreme Court Judges)

Appendix H Schedule E

IN THE MATTER OF

The Public Service (Collective Bargaining) Act, 1973

- and -

The College of Trades and Technology, St. John's

- and -

Newfoundland Association of Public Employees.

REASONS FOR DECISION:

This is an application made by The College of Trades and Technology to have the Board exclude the position of Clerk-Stenographer III, Topsail Road Campus, from the bargaining unit.

Evidence before the Board reveals that this position has been part of the bargaining unit since it was established in December, 1981.

The union raised two preliminary points on this application. The union contends that (1) the Board has no jurisdiction under the Act to amend a bargaining unit it did not establish and (2) the application is not a proper one since the parties have not gone through the proper channels under the collective agreement.

The Board is unable to agree with the union on either of the preliminary points. The collective agreement on the latter point seems to be clear. The agreement states that any unresolved dispute on inclusions or exclusions will be referred to the Board by either party. The union contends that there is really no unresolved dispute within the meaning of the agreement because the employer did not make it a part of their proposals during collective bargaining but only raised it after the parties had exchanged proposals. The union further contends that the matter was dropped entirely when the parties dealt with the outstanding issues during the conciliation process. The employer disagrees and insists that the matter was raised at the bargaining table

and the union gave a verbal rejection. The employer considered the matter to still be outstanding.

It appears to make little difference how the matter was raised or dealt with during the negotiations. Article 3:02 of the collective agreement states:

> "Any unresolved dispute on inclusions or exclusions in the bargaining unit will be referred by either party to the Labour Relations Board for

This article appears to contemplate a dispute arising during the term of the agreement and the Board agrees that any party, in this case the employer, has a right to refer the matter to the Board. The Board is of the opinion that it can assume jurisdiction.

The contention of the union that the Board has no jurisdiction to amend a bargaining unit it did not establish is, in the opinion of the Board, without merit. Section 40(2) of The Public Service (Collective Bargaining) Act, 1973 states:

> "A decision or order of the Board made under this Act is not open to review or question, but the Board may, if it considers it advisable so to do, reconsider any decision or order made by it under this Act and may vary or revoke any decision or order so made by it."

This section gives the Board power to reconsider and, if it wishes, vary any order made by it. The union contends that the Board did not make any order affecting the College of Trades and Technology. This bargaining unit was the result of a voluntary recognition between the College and the union. However, Section 9(1) of the Act has, in effect, certified all bargaining agents who were previously voluntarily recognized and further states that they are subject to the provision of the Act. This section appears to give to the Board the same powers to deal with such bargaining units as if the Board has issued the certification order. Because of this section and the provisions in the collective agreement, the Board

decided that it has jurisdiction to entertain the application made by the College.

The Board heard evidence from the employee currently working in the position. The evidence shows that Mrs. Foley is a senior clerk-stenographer and is employed as secretary to the Director of the Topsail Road Campus. As part of her duties, she assigns work to a clerk-typist and a clerk and ensures that the work is completed. She also performs a variety of clerical functions such as preparing daily cash receipts for the book store, certain vending machines etc., maintains all records, maintains office supplies, etc., performs typing for the Director and instructors as required. She also attends meetings of the College where the training programs of the College are discussed. She takes minutes of the meetings and prepares a draft.

The employer contends that the Topsail Road Campus is semi-autonomous with its own Director. The employer feels that his secretary should be excluded from the unit because of her confidential and supervisory duties. The employer contends that currently the Director has to have confidential letters typed by one of the confidential secretaries at the main College Campus.

The union contends that Mrs. Foley exercises limited supervision over the clerk-steno and clerk amounting to no more than a distribution of work between the employees. This limited supervision, the union contends, does not warrant exclusion from the unit. The union also contends that access to confidential information is of little significance since it does not relate to labour relations.

The Board has considered the position of the parties and the evidence adduced at the hearing. The Board agrees with the position taken by the union in that the nature and extent of the supervisory and confidential duties are not sufficient to warrant the exclusion of Clerk Stenographer III from the unit.

For the above reasons the Labour Relations Board assumed jurisdiction to deal with the application and further rejects the employer's application.

ISSUED at St. John's this 27th day of April, 1983.

For the Board,

GORDON G. EASTON, Q.C.
Chairman

Schedule "F"

The Newfoundland Teachers (Collective Bargaining) Act, 1973

Statement of Proceedings before the Board during the year 1983

There was no activity under this legislation during this period.

Schedule "G"

The Occupational Health and Safety Act

Statement of Proceedings before the Board during the year 1983

1.	Number of applications pending at 1 January, 1983	0
2.	Number of applications filed during the year	1
3.	Number of applications pending as of 31, December 1983	1

Applications Pursuant to Section 49 of the Act

1. Allan Smith and Wade Dean and Suburban Construction Limited, St. John's.

   The Matter is pending before the Board.